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SPECIFIC GROUPS AND INDIVIDUALS

MIGRANT WORKERS

Human rights of migrants

Report of the Special Rapporteur, Ms. Gabriela Rodríguez Pizarro, submitted pursuant to Commission on Human Rights resolution 1999/44

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Executive summary

In accordance with Commission on Human Rights resolution 1999/44, the Special Rapporteur on the human rights of migrants, Ms. Gabriela Rodriguez Pizarro, is submitting her first report. The first part of the text describes her activities under the mandate entrusted to her by the Commission. There follows a description of the context of the feminization of migration and the international community's growing interest in the phenomenon, which has led to various initiatives.

That description is followed by the first outline of the work programme itself, the main purpose of which is to collect information in order to be able to submit reports to the Commission at its fifty-seventh and fifty-eighth sessions, as well as to make recommendations to the bodies concerned. This includes the preparatory process for the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. Information will be collected from all sectors, including migrants themselves, and will take into account the gender perspective. The work programme should also include close monitoring of intergovernmental and intersectoral initiatives already under way to tackle the problem of migration, and observer missions to countries affected by the phenomenon.

The second part of the report is devoted to an initial examination of the international instruments available for the protection of the human rights of migrants and highlights the lack of a comprehensive definition of existing categories of migrants. This examination takes into account the net effects of the domestic laws and regional agreements regarded as critical for the defence of the human rights of migrants. Special emphasis if placed on the need to take into account the problem of trafficking in persons (not only for the purposes of prostitution) and the implications of returning undocumented migrants to their places of origin. In this chapter, the Special Rapporteur proposes that a working definition of the category of migrant should be formulated, and that the adoption of existing instruments covering the rights of one or more of the categories discussed should be recommended and encouraged.

Lastly, the report presents some comments by the Special Rapporteur on areas considered suitable for further research: the link between migration and the increase in racism, discrimination and intolerance, and a more detailed examination of the issues surrounding women migrants and their implications for a gender-based approach to the phenomenon of migration. This section is followed by observations on migration issues as they affect children. Lastly, it is explained how, from this perspective, the concept of vulnerability applies to migrants and how considerations of the obstacles to the protection of their rights, which were noted by the working group of intergovernmental experts on the human rights of migrants, are taken up. The report concludes with chapters on preliminary conclusions and some recommendations.

I. INTRODUCTION

1. At its fifty-fifth session, the Commission on Human Rights adopted resolution 1999/44, by which it decided to appoint, for a three-year period, a special rapporteur on the human rights of migrants to examine ways and means to overcome the obstacles existing to the full and effective protection of the human rights of this vulnerable group, including obstacles and difficulties for the return of migrants who are undocumented or in an irregular situation. The Special Rapporteur should formulate strategies and recommendations for the promotion and implementation of policies to protect the human rights of migrants, and establish the criteria on which those policies should be based.

2. In the same resolution, the Commission invited the Special Rapporteur, in the performance of his/her functions, to request and receive information from all relevant sources, including migrants themselves, on violations of the human rights of migrants and their families, to promote the effective application of relevant international norms and standards on the issue, and to recommend actions and measures applicable at the national, regional and international levels to eliminate violations of the human rights of migrants.

3. The Commission requested the Special Rapporteur to take into account a gender perspective when requesting and analysing information, a perspective that will also be taken into account when analysing existing legislation and making recommendations. It also recommended that special attention should be given to the occurrence of multiple forms of discrimination and violence against migrant women.

4. Pursuant to this resolution, on 6 August 1999, the Chairperson of the Commission on Human Rights at its fifty-fifth session, after consultation with the members of the Bureau, appointed Ms. Gabriela Rodriguez Pizarro (Costa Rica) as Special Rapporteur on the human rights of migrants.

5. The Economic and Social Council, in its decision 1999/239, endorsed Commission on Human Rights resolution 1999/44.

6. Aware of the weighty responsibility entrusted to her, as well as the amount of work involved and the need to seek the support and cooperation of all relevant bodies, in compliance with resolution 1999/44, the Special Rapporteur submits this report to the Commission on Human Rights for its consideration.

7. The report consists of eight chapters. Chapters II-V describe the recent activities of the Special Rapporteur, the background to her mandate, an outline of her plan of action and a first look at the existing legal framework of international instruments relating to the rights of migrants. Chapter VI contains observations on the aspects considered relevant to the design of a strategy for the human rights of migrants, including some of the main obstacles to the full protection of migrants' rights. The last part of the document consists of the preliminary conclusions and recommendations of the Special Rapporteur (chapters VII and VIII).

II. ACTIVITIES OF THE SPECIAL RAPPORTEUR

8. The Special Rapporteur visited Geneva between 13 and 17 September 1999. During her stay, she held consultations with staff members of the Office of the High Commissioner for Human Rights and with the High Commissioner herself, as well as with members of intergovernmental bodies and representatives of non-governmental organizations (NGOs), and drew up a plan of activities for the three years of her mandate.

9. The Special Rapporteur visited New York between 4 and 6 November and once again met the High Commissioner, as well as special rapporteurs and NGOs. She was back in Geneva between 25 November and 2 December to meet representatives of the permanent missions and officials of intergovernmental, international and non-governmental organizations.

10. On the latter occasion, she attended a meeting of the International Steering Committee of the Global Campaign for Ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

11. As a first step, and in compliance with the provisions of paragraph 5 of Commission on Human Rights resolution 1999/44, the Special Rapporteur sent out, on 27 September 1999, a letter to Governments, the specialized agencies of the United Nations, the chairpersons of treaty bodies, and NGOs, requesting information relevant to her mandate. She is especially interested in receiving information on measures being taken in response to the questions raised by the issue of the human rights of migrants, with a view to formulating suitable recommendations to the Commission.

12. The information provided in the replies to her letter is now being studied by the Special Rapporteur and will be reflected in her oral presentation of this report to the Commission at its fifty-sixth session.

III. BACKGROUND

13. The international community's growing interest in human rights issues has meant that migrants' rights have begun to receive special attention. In addition to the initiative taken by the Commission and the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights in 1993 (part II, paras. 33-35), the Programme of Action of the International Conference on Population and Development held at Cairo (chapter X), the Programme of Action of the World Summit for Social Development, held at Copenhagen (Programme of Action, chapter III), and the outcome of the Fourth World Conference on Women, held in Beijing (Platform for Action, chapter IV, section D), devote special attention to the issue of migrants' human rights. The working group of intergovernmental experts on the human rights of migrants has made a considerable contribution to our knowledge of this phenomenon and to identifying the current obstacles to the full and effective exercise of their human rights by that "vulnerable group".[1] Intergovernmental bodies have promoted a number of initiatives to establish a dialogue between Governments in regions that have to deal with the

same migrant issues. A similar interest has been shown by sectors of civil society and has been brought to the attention of the general public all round the world by the news media. The news services tend to highlight the problems of trafficking in persons, particularly women and children, and the widespread abuse of undocumented workers in the informal economy.

14. The Special Rapporteur notes that migration occurs for a variety of reasons: people are unable to remain in their own countries mainly because of poverty and because they cannot earn a living for themselves or their family, and because of civil conflicts and insecurity or persecution for reasons of race, ethnic origin, religion, language or political views. The States whose citizens migrate for these reasons share these problems with the States which receive large numbers of migrants. Human rights violations hypothetically arise for the receiving or "desired" State that rejects inflows of migrants. Such violations occur insofar as the national populations cannot be contained within their home countries. A common outcome of this phenomenon is that people become undocumented cross-border migrants.

15. Estimates of the different categories of migrant suggest that a total of between 120 and 130 million people are outside their countries of origin. The International Labour Organization (ILO) estimates that between 70 and 80 million of these are so-called "migrant workers", while the Office of the United Nations High Commissioner for Refugees (UNHCR) reports that there are 21.5 million refugees and reckons that there are 30 million displaced persons. In 1997, ILO estimated that the number of migrant workers was as follows: Africa, 20 million; North America, 17 million; Central and South America, 12 million; Asia, 7 million; the Middle East (Arab countries), 9 million; and Europe, 30 million. There are massive movements of migrants towards the North, but there is more and more movement between the countries of the South. Women and children account for more than half of the refugees and internally displaced persons, and their proportion is increasing in the case of the other categories of migrants, including migrant workers.

IV. PLAN OF ACTION

16. The Special Rapporteur outlined a plan of action for the three-year period of her mandate. In this context, the Special Rapporteur considered that, in addition to the definition of the legal framework, which can be found in paragraph 25 and the following paragraphs and which should be broadened in the way described in that section, a survey of regional initiatives needs to be carried out so that the Governments of home countries and/or transit countries can enter into dialogue with those of countries that are traditionally seen as migrant destinations. Some of these initiatives, which are at varying stages of development, bear the name of the cities or regions where they were launched: the Puebla process,[2] the Manila process, the Bangkok initiative (the Bangkok Declaration) and the Dakar, Mediterranean, Cairo, Lima and Commonwealth of Independent States (CIS) initiatives.

17. As her contribution to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, due to be held in 2001, the Special Rapporteur intends to submit a paper to the Preparatory Committee at its first session in May 2000. That paper will deal with the substance of the Programme of Action for the Third Decade to Combat Racism and Racial Discrimination, with particular reference to the forms of intolerance present in migrants' home countries, as well as in transit countries and countries of destination.

18. In addition to the reports planned for the fifty-sixth, fifty-seventh and fifty-eighth sessions of the Commission, the Special Rapporteur believes it is important to produce a programme to prevent the various kinds of discrimination against migrants. This programme will be proposed after consultations with Governments and intergovernmental and non-governmental organizations.

19. She will also consult the Governments of countries in the African, Asian, American and European regions with a view to finding out about migration policies, in order to start a dialogue between Governments and civil society aimed at finding specific ways of dealing with the obstacles faced by migrant populations seeking recognition of their rights. A dialogue on policy measures and actual practice in this area is vital at the national and regional levels.

20. The Special Rapporteur believes it is crucial to support the campaign for the ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, as well as other international human rights instruments.

21. The Special Rapporteur acknowledges the important work on the ratification of the International Convention carried out by the Steering Committee of the Global Campaign for Ratification of the Convention[3] through its secretariat in the International Migrants Rights Watch Committee.

22. The Special Rapporteur also acknowledges the important work carried out by the working group of intergovernmental experts on the human rights of migrants in giving an overall picture of the phenomenon of migration and in identifying the main obstacles to the full protection of the human rights of migrants.

23. As part of this process of documentation, the Special Rapporteur plans to examine relevant domestic policies and laws. This examination will be carried out with due regard for international norms and treaties, the case law of the international human rights treaty bodies, the recommendations and agreements adopted at international conferences, the measures and decisions taken by the United Nations and international organizations, and the case law and other measures of regional organizations.

24. With regard to the national contexts, the Special Rapporteur plans to compile a set of recommendations on measures to overcome the obstacles to the prevention of discrimination against migrants, basically with respect to: legislation and legal measures, administrative and governmental measures at the national, regional and local levels, the responsibilities of employers and entrepreneurs, the requirements for the dignified return of undocumented migrants, and actions by both civil society and States to take up all the issues relating to the human rights of migrants.

V. LEGAL FRAMEWORK: THE HUMAN RIGHTS OF MIGRANTS

25. If her work is to be effective, the Special Rapporteur believes a working definition of the concept of a migrant must be found. Since even the general term "migrant" has not been defined

in either international law or policy, a working definition needs to be found that will make it possible, in particular, to recognize and draw attention to situations in which the human rights of individuals can be protected by means of a legal, social and political framework.

26. Within the broad spectrum of international migrations there are some official definitions of certain categories of migrants, such as "migrant worker" or "migrant", which are defined in, respectively, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and ILO Conventions Nos. 97 and 143. There is also a definition of a refugee in the Convention and Protocol relating to the Status of Refugees.

27. The above-mentioned instruments or the rules for their implementation include definitions of various subcategories, such as asylum-seekers, people in situations similar to those of refugees and various specific categories of migrant workers (frontier workers, seasonal workers, etc.). Work is being carried out in the context of the draft protocol on trafficking in persons to the draft convention against transnational organized crime on the definition of the persons who are the victims thereof (trafficking in persons). This definition should also be examined in the light of the concept of the migrant, which the Special Rapporteur intends to establish as part of the plan of action.

28. There is no commonly accepted generic or general legal concept of the migrant in international law. It is often said that, by definition, many international migrants are not refugees and a large number of them are not migrant workers either. This is especially true in the case of the many migrants who are undocumented or in an irregular situation, including the victims of trafficking in persons, who are the most vulnerable to potential or actual violations of their human rights.

29. The Commission on Human Rights tacitly acknowledged the limitations of the term "migrant workers" when it established, first, the working group of intergovernmental experts on the human rights of migrants and, more recently, the post of Special Rapporteur on the human rights of migrants.

30. Definitions that are related to the reasons why people leave their countries of origin are perhaps the least suitable kind of definition, except to the extent that they give access to legal protection and status in the host country, as in the case of refugees. In the light of the political, social, economic and environmental situation of many countries, it is increasingly difficult, if not impossible, to make a clear distinction between migrants who leave their countries because of political persecution, conflicts, economic problems, environmental degradation or a combination of these reasons and those who do so in search of conditions of survival or well-being that do not exist in their places of origin.

31. There is a gap in international human rights jurisprudence in this area. The virtually universal system of protection for refugees means that violations of their civil and political rights can be recognized and remedied, especially when they pose such a risk to persons' lives and security that they are forced to flee their country. However, there is no such recognition of violations of economic, social and cultural rights, which can also be serious enough to force

people to flee their places of origin. Consequently, there is no recognition of the need to protect in any way people who do not want, or are unable, to return to situations in which the lack of fundamental economic, social and cultural rights makes it extremely difficult or impossible to survive.

32. People whose colour, physical appearance, dress, accent or religion are different from those of the majority in the host country are often subjected to physical violence and other violations of their rights, independently of their legal status. The choice of victim and the nature of the abuse do not depend on whether the persons are refugees, legal immigrants, members of national minorities or undocumented migrants.

33. Consequently, in order to give a definition of a migrant that is based on human rights, the first and most important step is to see whether or not the rights of those persons enjoy some form of legal, social and political protection.

34. Although the concept of vulnerability is useful for emphasizing the lack of protection of migrants, there is no reason to link it with the concept of weakness. It is also recognized that migrants in an irregular situation are in a particularly difficult position. The Special Rapporteur stresses that this consideration of vulnerability is the only one that makes it possible to protect migrants by empowering them.

35. On the basis of these considerations, an initial proposal for a basic definition of a migrant that takes into account his or her human rights would contain the elements given in the following paragraph.

36. For the purpose of studying and strengthening the protection of the human rights of migrants, the following can be considered as migrants:

(a) Persons who are outside the territory of the State of which they are nationals or citizens, are not subject to its legal protection and are in the territory of another State;

(b) Persons who do not enjoy the general legal recognition of rights which is inherent in the granting by the host State of the status of refugee, permanent resident or naturalized person or of similar status; and

(c) Persons who do not enjoy either general legal protection of their fundamental rights by virtue of diplomatic agreements, visas or other agreements.

37. Also for the purpose of studying and strengthening the protection of the human rights of migrants, attention should be given, as a matter of priority, to migrants in an irregular situation. The human rights of undocumented migrants are also a cause for concern, like the rights of the victims of trafficking. Another cause for concern is the rights of other groups or categories of persons who are vulnerable to discrimination and the denial of their rights and who are legally, socially and politically the most disadvantaged in the places where they live.

38. A review of past practice shows that the Constitution of the Intergovernmental Committee for European Migration refers to migrants in its article 1, paragraph 1,

subparagraph (a), on its purpose and functions. The term is understood as covering all cases of persons whose decision to migrate is taken freely, for reasons of personal convenience, and without intervention of an "external compelling factor".[4] As far as the perceived reasons for migrating are concerned, the voluntary nature or otherwise of the move is a point that will need to be borne in mind and given priority in later discussions aimed at reaching a definition of the term "migrant" that is closer to the reality of this complex phenomenon.

39. The term "migrant worker" is defined in article 2 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families as: "... a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national".

40. This definition includes undocumented workers who enjoy certain rights recognized in part III ("Human rights of all migrant workers and members of their families") of the Convention. Article 2, paragraph 2, contains definitions of several specific categories of migrant workers, such as frontier workers, seasonal workers, seafarers, workers on offshore installations, itinerant workers, project-tied workers and self-employed workers. The definition in article 2 refers exclusively to migrant workers who are outside their own country. The Special Rapporteur expresses her concern at the shortcomings of a legal framework that disregards desperately poor migrants whose rights need to be protected by categorizing them as "economic migrants". In many of these cases, the departure has been prompted by violence and the conditions that lead to migration are similar to those that give rise to forced displacement or asylum-seeking.[5]

41. Other categories of persons that ought to be mentioned are former refugees, persons who were once externally displaced, and demobilized soldiers. Several of these new kinds of migrant can be found in Central America. For example, once the peace agreements had been signed, those persons who had been resettled and reintegrated became classified as migrants in an irregular situation, and their problems were not resolved in a dignified way. Another important category is that of women who have been subjected to trafficking or forced into prostitution, and who have no status in the countries of destination, despite efforts to eradicate that practice.[6]

42. The Special Rapporteur believes it is important to distinguish between "migrant workers" and "refugees and stateless persons", as the International Convention applies to the former but not the latter. On this point, the Convention differs from the four ILO conventions on migration, which apply to refugees and displaced persons as long as they are workers employed outside their home country.[7] Similarly, the Constitution of the Intergovernmental Committee for European Migration (subsequently the International Organization for Migration (IOM)) stipulates that the Organization will deal with refugees, displaced persons and others forced to leave their home country who require international migration services.

43. The Special Rapporteur therefore believes that a provisional definition of a migrant that takes into account his or her human rights and the concepts already defined should be adopted in the near future, but the possibility must be left open of further refining the definition subsequently.

VI. OBSERVATIONS

A. Discrimination and intolerance

44. In the Third Decade to Combat Racism and Racial Discrimination, there has a been an alarming upsurge in intolerance, discrimination, racism and xenophobia in the form of outright violence against migrants in practically every region in the world.

45. As stated in working paper E/CN.4/AC.46/1998/5, "One of the most relevant factors which led the Commission on Human Rights to create the working group on international migrations and human rights was: 'the increasing manifestations of racism, xenophobia and other forms of discrimination and inhuman and degrading treatment against migrants in different parts of the world' (resolution 1997/15)."[8]

46. Racism, racial discrimination, xenophobia and related intolerance may be aggravated by, inter alia, inequitable distribution of wealth, marginalization and social exclusion. New communication technologies, including such computer networks as the Internet, are being used to disseminate racist and xenophobic propaganda. Racial discrimination against migrant workers continues to increase despite efforts undertaken by the international community to protect the human rights of migrant workers and members of their families (see General Assembly resolution 53/132).

47. The Special Rapporteur believes that the core of the problem lies in everyday customs, which is where the primary manifestations take place and where they are the most ingrained. Such customs are linked to a number of forms of behaviour that must be rooted out by taking specific and determined action to promote human rights and democracy.

48. A sense of alienation is part of being a migrant. Moreover, racial and ethnic conflicts were often at the origin of the great migrations of our era. Migrant populations who suffer from such violations do not necessarily have the status of a non-national and persons engaging in discriminatory acts are generally unaware of the migrant status of their victims.

49. Only in a few cases, where other more political and military considerations are involved, do such racial and ethnic conflicts lead to armed conflicts. Where that has not happened, migrant populations within and outside their own countries also suffer from discrimination and racism.[9] This aspect of intolerance at the origin, in transit and at the destination of migrants is an important point where the issues related to racial discrimination and ethnic conflicts intersect with those related to movements of people.

50. The implications of this link between migration, racial discrimination and ethnic conflicts are even more disturbing when it comes to the problem of the return and reintegration of migrants who may have been sent back because they were undocumented in their "desired" destinations. In addition to the issues raised by the right to development of these people, they have to face the consequences of the cultural and psychological effects of returning.

51. Discrimination against migrant workers in the field of employment takes many forms, such as limitations or preferences with regard to the kind of work they can do. Some contracts

deny migrants certain advantages and also apply rules on job security that differ from those applied to nationals; sometimes they are excluded from the regulations on working conditions and denied the right to take part in trade union activities. The ILO Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) deals, in its part I, with migrations in abusive conditions and, in its part II, with equality of opportunity and treatment.

52. The incorporation of this complex set of issues into international standards is one of the features of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, which has been ratified by 12 countries.

53. As regards the children of migrants, there is resistance in some States to registering or enrolling the children of immigrants in school for fear that the general educational level will fall. In dealing with this issue, it should be remembered that those children have to adapt to different customs and languages, unless special measures are taken to help them overcome their difficulties.

54. In many countries, there are laws and practices that discriminate against foreigners seeking work in a country that is not their own. The granting of visas on the basis of the applicant's country or continent of origin and labour market regulations based on discriminatory criteria, together with xenophobia in the name of national security, nationalism or national preferences, are some of the most common realities that migrant workers have to live with and that give the Special Rapporteur cause for concern.

B. Violence against women migrant workers

55. The Special Rapporteur believes it is very important to tackle the problem of violence against women migrant workers as a vulnerable group.

56. Due to their double marginalization as women and as migrants, women migrant workers may easily find themselves in situations in which they are vulnerable to violence and abuse, both at home and at work (see E/CN.4/1998/74/Add.1). Women migrant workers dominate the informal labour market of most countries, working as domestic, industrial or agricultural labour or in the service sector. When women, most of whom are heads of household, find themselves in social circumstances that make it difficult for them to find paid work, they are forced to migrate. The way in which gender roles are traditionally established and the fact that men often do not share the domestic chores, particularly looking after children on a daily basis, make it even more difficult for women to develop personally and professionally. That situation often discourages women from staying in their families and/or places of origin. Migrant women, like many other women who do not migrate but who work outside the home, often leave their children in the care of family members or someone else. In many cases, particularly when the father is mostly or completely absent, this leads to the loss of sources of affection and to family breakdown. Both women who have been the victims of trafficking and those who migrate voluntarily may end up in situations of exploitation, violence and abuse, all of which have their origin in a situation like the one described above. The exchange of sexual favours for permission to transit, which is common practice on some frontiers, is also a form of gender-based harassment to which migrant women are often subjected.

57. The situation of women migrant workers within most social structures is one of heightened marginalization, often exacerbated and implicitly condoned by the State (see E/CN.4/1997/47).

58. In this connection, at its fifty-fourth session, the General Assembly adopted, on 17 December 1999, its resolution 54/138, on violence against women migrant workers, in which it requested all Governments to cooperate with the Special Rapporteur on the human rights of migrants in the performance of the duties mandated and to furnish promptly all the information requested. The General Assembly encouraged Governments, particularly those of countries of origin and destination, to share information on violence against women migrant workers with the Special Rapporteur with a view to requesting her to recommend concrete measures and actions to address the problem.

59. In astonishingly large numbers, women are migrating great distances across international boundaries to engage in poorly remunerated labour that isolates them in a subordinate position in a private realm. As a result, they are exposed to acute risks of physical or psychological violence and, often, to expropriation of their economic gains.

60. The lack of protection and regulations governing informal labour is at the origin of women migrant workers' dependence on their employer. Because of that lack, women often lose their right to reside in the host country if they leave their employer, even in cases of ill-treatment. In many countries, migrant workers are not permitted to change their employers, and the woman worker who finds herself in that situation is compelled to stay with her employer until either she leaves the country or is granted the right to legal residence status.

61. Women migrants, particularly domestic workers, are usually unable to escape from a situation of ill-treatment because they have no legal status. Mechanisms of support and assistance for women workers in violent situations exist in some countries of destination but are often inaccessible to women migrants because they do not speak the language, lack mobility or do not know that such organizations exist.

62. Many of these women workers seek protection at the embassies of their home countries, but some of these do not have adequate facilities or programmes to take care of them. The most frequently cited factors which "restrict women migrants' ability to leave situations of forced labour [are] (a) the lack of alternate employment; (b) the lack of legal literacy, particularly in regard to workers' rights; (c) the financial obligations to her family and their dependence on her income; (d) the lack of financial resources; (e) the fear of deportation; (f) restrictions on her movement; (g) the lack of identity papers; (h) the fear of arrest; (i) violence by traffickers and employers; (j) debt bondage and the often concurrent fear of retaliation against her family for not paying debts; and (k) the fear of reprisals" (E/CN.4/1997/47, para. 133).

63. The kinds of abuse and violence suffered by women migrant workers include the withholding of their wages, acts of physical and sexual violence, undernourishment, the seizure of their passports, and the lack of medical and health care.

64. According to the most recent estimates, there are today about 130 million international or "non-national" migrants in the world. Women account for 50 per cent of this figure, although

country statistics are regrettably scarce and take virtually no account of those without the necessary documentation. An estimated 30 million people come into the latter category, and women account for an increasing number of them.

65. The United Nations is concerned at the difficult situation of women migrant workers, as many of them have been the victims of gender-based violence. Migrant workers' lack of education, training and knowledge means they are easily deceived. The Fourth World Conference on Women, held in Beijing in September 1995, analysed the situation of migrant women and called on States to recognize the vulnerability of those women to violence and other forms of abuse. Particular attention was devoted to migrant women whose legal status in the host country depended on employers. The Platform for Action (chapter IV, section D) that came out of the Conference urged Governments to establish linguistically and culturally accessible services for migrant women and girls, including women migrant workers, who were victims of gender-based violence.

66. Although it is a research topic of growing interest, little attention has been paid to gender distribution in the various categories of migrants and its consequences for the families and communities in their places of origin.

C. Situation of migrant children

67. According to data from the ILO Statistics Office,[10] 96 per cent of children who work and sleep in the streets are migrants. They live in dire poverty and destitution, with no fixed place of work and no parents to take care of them or look after them. Many of them have stopped going to school. Forty-six per cent of street children are girls, aged between 8 and 14. According to the same sources, the average age of girls is lower than that of boys.

68. In *The State of the World's Children 1995*, UNICEF stresses that it is children who must suffer the consequences of the Third World's debt. The same report points out that the worst-hit areas are the education and development of children.

69. The main factor behind the migration of child labour is poverty and family destitution. Other contributing factors are the break-up of the family as a result of poverty, the lack of a working father or mother and the death of the father or mother or the invalidity of both. In a number of countries, child workers come from poor migrant families and, in some of them, cultural values support early entry into the labour market. Because of their inexperience and age, children are taken on for badly paid and menial jobs, jobs where they are particularly vulnerable to exploitation in the workplace (in terms of social and health care), manual jobs (breaking stones, weaving carpets), and work in factories. The growing numbers of children attracted by the lure of the tourist industry are vulnerable to sexual exploitation.

D. Vulnerability

70. There are different perspectives on the vulnerability of migrants. Those perspectives vary according to whether the States concerned are countries of origin, transit or destination for migrants. Consequently, the differences between those perspectives becomes more pronounced with respect to problems stemming from the integration of migrants into the host society; social,

religious and linguistic differences, the relationship between State sovereignty and undocumented migration; or problems stemming from the trafficking in migrants. "An essential element in the understanding of vulnerability was the factor of powerlessness which, more often than not, characterized the migrant" (E/CN.4/1998/76, para. 45).

71. In her address at the University of Oxford in 1997, the United Nations High Commissioner for Human Rights said that "one lesson we need to learn, and to reflect in our approach, is that the essence of rights is that they are empowering". Thus, vulnerability is understood as a condition of a lack of empowerment, a condition imposed on a person by the power structure of a country. There is a structural and cultural vulnerability ascribed to non-nationals, foreigners or immigrants by the "nationals" of a given country. The structural nature derives from the existence of a power structure which shows that in any given national society, some have more power than others.

72. The cultural nature of vulnerability derives from the set of cultural elements (stereotypes, prejudices, racism, xenophobia, ignorance and institutional discrimination), with derogatory meanings which tend to justify the differences between "nationals" and non-nationals or migrants.

73. The combination of (a) power differentials based on a structure where the immigrant is at a lower level than nationals, with (b) the set of cultural elements which justify it, results in various degrees of impunity in cases of the violation of the human rights of a migrant. This impunity then becomes an empirical indication of the powerlessness of the migrant, which is equal to his or her vulnerability. " 'Impunity' here is understood as the absence of economic, social or political costs for the violator of the human rights of a migrant" (E/CN.4/AC.46/1998/5, para. 30).

74. Vulnerability is not a condition that immigrants take with them to the country of destination, whether or not their entry into a given country is legal. It is not intrinsic to racial characteristics, or to a country or ethnic origin, or to the development conditions of the country or region of origin. What is intrinsic to the condition of every human being and thus to every migrant, wherever he or she may go, is the ability to transcend situations imposed against his or her will. In this commitment, the empowering function of human rights protection plays a fundamental role.

E. Obstacles to full protection

75. An important part of the mandate contained in resolution 1999/44 is to gather information on the obstacles to the full and effective protection of the human rights of migrants.

76. The obstacles identified by the working group of intergovernmental experts are categorized as institutional, social and economic; some of them deserve special attention.

77. One of the basic institutional obstacles is the absence or non-acceptance in domestic legislation of universal standards which explicitly recognize the human rights of migrants. Many countries have incorporated human rights standards into their domestic legal systems, although their application has, in the best of cases, been restricted to their own citizens. Another

institutional obstacle is the failure to achieve widespread ratification of international instruments dealing with migrants' rights, such as ILO conventions No. 97 and No. 143 and the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

78. The vulnerability of migrants is another significant obstacle: human rights abuses related to deportations and inadequate training of officials in human rights matters can be counted as institutional obstacles.

79. Among the social obstacles confronting migrants are social exclusion and the concentration of migrant households in disadvantaged urban areas, which make access to education, health care or employment more difficult. Even more seriously, the social obstacles include segregation and hostility, stereotyping, xenophobia and racism.

80. There are some groups of migrants who hover on the fringes of the documented and undocumented sectors. They include, in the first place, women used for pornography and prostitution; domestic workers, most of whom are women; and farm and seasonal workers, who seem to be particularly vulnerable to rights abuses because of their short-term employment, low educational level and labour legislation that favours agro-business.

81. A large number of countries are unwilling to ratify the human rights standards of the United Nations and ILO. This unwillingness is the result of real people defending real interests with the backing of real power bases - the very people who are often responsible for the obstacles to the full application of these human rights standards.

VII. PRELIMINARY CONCLUSIONS

82. Contemporary trends in migrant movements in the era of globalization pose a challenge to the protection of the human rights of that large sector of the world's population. The first challenge is to define a concept of migrant populations that will cover new situations and to translate that into definitions in the international instruments. The situations referred to are those in which a large number of persons find themselves after leaving their country of origin or even before they do so. Unlike refugees, these populations have no formal status that affords them international protection. In many cases, these same groups and individuals do not fit into the category of migrant worker. This shortcoming in terms of definitions is all the more serious if we bear in mind that well-founded field studies show that more and more of today's migrants are women on whom there are no data.

83. The phenomenon of women migrants is a sign of the growing participation of women in remunerated productive activities. The same phenomenon is also a manifestation of a change in the social fabric, the main feature of which is the increase in the number of households headed by women. In many cases, the new family situation arises when the father migrates or leaves his family.

84. Households in which the mother has to migrate in search of a better standard of living for its members, as well as households in which the mother stays behind while the father migrates, are becoming increasingly common, and will become a defining characteristic of societies in many countries in the twenty-first century.

85. The changes in lifestyle implied by these new roles also determine how individuals in these families are prepared for working life. Often, these households are the same as those in which the phenomenon of child migration is most common. In addition to all that, the consequences of changing roles, particularly with regard to the use and control of resources and decision-making within the family, need to be dealt with. Often, these changes in households find outward expression in alarming episodes of physical and psychological domestic violence.

86. As well as the question marks concerning definitions, the limitations of international legislation have also to be considered. It is only the International Convention of 1990 which does not restrict itself exclusively to references to migrant workers but also includes members of their families. This Convention has not yet entered into force; if it were to do so, it could be an important tool for the protection of the rights of migrants, including those of undocumented migrants.

87. The documents relating to the Third Decade to Combat Racism and Racial Discrimination and, in particular, those relating to the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance also discuss discrimination against migrant workers (see E/CN.4/1998/78). The provisions of the international conventions on migrant workers address discrimination in employment. Although the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child cover migrant women and children, they do not deal specifically with the rights of those persons who are in transit outside the borders of their country. Those vulnerable groups receive special treatment in the analysis of the issue of trafficking in women and children. However, the issues of migrant women and children are not limited to the problem of trafficking.

88. Trafficking in persons is the aspect of migration about which the international community is particularly concerned. The concept of trafficking can be approached from various perspectives. The term should be distinguished from "smuggling". Whereas trafficking may include a complex organization of contacts, smuggling refers solely to unlawful border-crossing services. Trafficking in persons in particular involves violations of a number of international conventions. This applies to persons who are victims at the moment of departure, transit and arrival in the country of destination.

89. The Special Rapporteur believes that special emphasis should be laid on the problem of the forms of intolerance that arise when the reinsertion of migrant populations is completed. Similar emphasis should be laid on dealing with the intolerance that impels these groups to migrate.

90. The day-to-day problems faced by migrants, especially by women migrants who have suffered from systematic gender-based violence and who have been unable to get a satisfactory

response from the relevant authorities, are also a cause of deep concern and, as in the case of the preliminary conclusions noted above, effective action must be taken to resolve them and to protect the rights of that sector of the population.

VIII. RECOMMENDATIONS

91. The Special Rapporteur makes the following recommendations:

(a) In order to allow the Special Rapporteur to carry out her mandate, an inter-agency task force should be established to assist her and the Office of the High Commissioner for Human Rights in their work. The objectives of the task force would be: to contribute to research; to provide expert knowledge on how to deal with the topic in order to enhance the work of the Special Rapporteur; to collect and transmit systematically the data and information available on the situation of migrants in various countries; to facilitate the contacts the Special Rapporteur needs to make in order to fulfil her duties; and to help in the preparation of her reports to the Commission;

(b) Intersectoral cooperation should be promoted to collect and analyse specific cases to illustrate the emerging categories of migrants without protection;

(c) Existing standards and institutional arrangements for the full protection of migrants should be promoted, including the prevention of arbitrary expulsion, the return of undocumented migrants in dignified circumstances, and measures for the reinsertion of returnees, especially women who have been the victims of trafficking and persons belonging to national minorities;

(d) The forums for negotiation and discussion should be strengthened such as the Puebla process, the Manila process and the Bangkok, Dakar, Mediterranean, Cairo, Lima and Commonwealth of Independent States (CIS) initiatives, by finding ways to include the civil and academic sectors in that framework;[11]

(e) Action should be taken to promote and lobby for the ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;

(f) Attention should be focused on the links between the topic of migration and the ongoing work of the Commission on Crime Prevention and Criminal Justice and, in particular, on the effects of trafficking and smuggling on migrants' rights;

(g) An intersectoral dialogue should be initiated to find ways and to develop specific policies to deal with migration issues and their implications for development, gender equity and the return and integration of repatriated migrants;

(h) The processes whereby multinational trading agreements are reached and country groupings formed should be monitored, with the aim of including in those processes a deeper analysis of the impact of globalization on the migration of people, thus averting situations in which the rights of migrants are violated;[12]

(i) Action should be taken to strengthen technical advisory services and training in international human rights instruments for civil servants and migration officials at all levels, while incorporating the gender perspective into work with migrant populations;[13]

(j) Cooperative action to draw up migration policies that prevent the recurrence of patterns of subordination, violence against women migrants and gender-based discrimination should be encouraged;[14]

(k) Governments should be urged, in forums for negotiations and discussion, to take steps to prevent the trafficking in persons; and

(l) Close links should be established between the protection of migrants' rights and the work of the Preparatory Committee for the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (to be held in 2001) as a way of documenting the cases of mass migrations caused by discrimination and by racial and ethnic conflicts. Of particular interest is the link between this phenomenon and factors that encourage people, especially women, to migrate.[15]

Notes

[1] See the working paper prepared by Mr. Jorge A. Bustamante, Chairman/Rapporteur of the working group of intergovernmental experts on the human rights of migrants (E/CN.4/AC.46/1998/5).

[2] See the report of the Secretary-General on international migration and development, including the convening of a United Nations conference on international migration and development (A/52/314), paras. 50-52.

[3] The members of the Steering Committee are: European Union Migrants' Forum, Inter-American Institute of Human Rights, International Catholic Migration Commission, International Commission of Jurists, International Confederation of Free Trade Unions, International Labour Organization, International League for the Rights and Liberation of Peoples, International Migrants Rights Watch Committee, International Organization for Migration, Migrants Forum in Asia, Office of the United Nations High Commissioner for Human Rights, Public Services International and World Council of Churches.

[4] Perruchoud, "Persons falling under the mandate of the International Organization for Migration (IOM) and to whom the Organization may provide migration services", 4 *International Journal of Refugee Law*, 205, 1992, p. 209, in IOM, *IOM and Effective Respect for Migrants' Rights*, Legal Services, November 1997 (http://www.iom.int/migrationweb/Focus_Areas/entrym.htm).

[5] See the discussion on "de facto refugees" in, for example, "Racism and intolerance versus refugees in the host country", prepared by Peter Nobel for the Seminar of Experts on Racism, Refugees and Multi-ethnic States, held at Geneva from 6 to 8 December 1999, pp. 5 et seq. (HR/GVA/DR/SEM/1999/BP.3).

[6] See the report of the Special Rapporteur on violence against women on her mission to Poland to study the issue of trafficking and forced prostitution of women (E/CN.4/1997/47/Add.1).

[7] See International Labour Conference, thirty-second session, Geneva, 1949, p. 285, in International Labour Office, *Migrant Workers*, Report III (part 1B), eighty-seventh session of the International Labour Conference, Geneva, 1999, p. 41.

[8] Para. 24. See note 1 above.

[9] See "Human rights as a way to strengthen multiracial and multi-ethnic States", prepared by Mario Jorge Yutzis for the Seminar of Experts on Racism, Refugees and Multi-ethnic States, held at Geneva from 6 to 8 December 1999 (HR/GVA/DR/SEM/1999/BP.2).

[10] See International Labour Organization, *Comprehensive and Reliable Data*, Children and Work No. 1 (June 1995), 190. *A Moment to Choose: Risking to Be with Uprooted People. A Resource Book*. Compiled and written by Helen Moussa, Patrick A. Taran and Martin Robra, World Council of Churches, Unit IV, Sharing and Service, Refugee and Migration Service.

[11] See the paper on the Puebla process prepared by the Government of El Salvador and IOM for the fourth regional conference on migration, held at San Salvador, from 26 to 29 January 1999.

[12] Within the scope of this recommendation, it is important to take into account the initiatives to establish a migration observatory in Europe. See "Feasibility study for a European migration observatory: final report", Migration Research Unit, Department of Geography, University College London; Institute for Minority and Ethnic Studies, University of Amsterdam; Centre for International Studies and Research, Paris, May 1996.

[13] See the International Migration Policy Programme, A Global Programme for Government Capacity-Building and Cooperation, under the auspices of UNFPA, UNITAR, IOM and ILO.

[14] See the report of the Special Rapporteur on violence against women to the Commission on Human Rights at its fifty-third session (E/CN.4/1997/47) and the report of the Secretary-General on violence against women migrant workers to the Commission at its fifty-fourth session (E/CN.4/1998/74).

[15] See the report of the Secretary-General on the implementation of the Programme of Action for the Third Decade to Combat Racism and Racial Discrimination and the preparatory process for the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (A/54/299) and the report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance to the Commission on Human Rights at its fifty-fourth session (E/CN.4/1998/79).

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SPECIFIC GROUPS AND INDIVIDUALS: MASS EXODUSES AND DISPLACED PERSONS

Internally displaced persons

Report of the Representative of the Secretary-General,
Mr. Francis M. Deng, submitted pursuant to
Commission on Human Rights resolution 1999/47

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Executive summary

In 1992, in response to growing international concern about the large number of internally displaced persons throughout the world and their need for assistance and protection, the United Nations Secretary-General, at the request of the Commission on Human Rights, appointed for one year a Representative on internally displaced persons (Commission resolution 1992/73). The Representative was requested to prepare a comprehensive study identifying existing laws and mechanisms for the protection of internally displaced persons, additional measures to strengthen implementation of these, and alternatives for addressing protection needs not adequately covered by existing instruments. The mandate of the Representative since has been renewed three times (resolutions 1993/95, 1995/57 and 1998/50) and the Representative has been requested to continue his analysis of the causes of internal displacement, the needs of those displaced, measures of prevention and ways to strengthen protection, assistance and solutions for the internally displaced. The Representative is requested to do so through dialogue with Governments, intergovernmental, regional and non-governmental organizations, and by taking into account specific situations.

The Representative reports annually to the Commission and biennially to the General Assembly. The present report provides an overview of developments in the work of the mandate of the Representative since the last report to the Commission (E/CN.4/1999/79 and Add.1-2). It is intended to complement the report presented to the General Assembly at its most recent session (A/54/409).

The main report provides an overview of developments in the various areas of work of the mandate, specifically: the Guiding Principles on Internal Displacement, the institutional framework, the country focus, exploring new issues, and setting out the future directions for the mandate.

There are three addenda to the report. Addendum 1 consists of a report of the Representative's follow-up mission to Colombia to study the situation of internal displacement and contains recommendations to the Government and the international community for addressing it more effectively. Addendum 2 is a summary report of a workshop on internal displacement in Colombia which immediately followed the Representative's official mission to that country. Addendum 3, the publication of which will depend on demands upon conference services, is to consist of a report of the Representative's mission to East Timor, scheduled for February/March 2000.

Introduction

1. "How to help millions of the world's most vulnerable people who are internally displaced", the cover of a December 1999 publication of the Office of the United Nations High Commissioner for Refugees (UNHCR) reads, is "the hot issue for a new millennium". Indeed, the issue of internal displacement has become a cutting-edge issue in two respects. First, there has grown in recent years greater international awareness of the problem - not only of its scope and magnitude but also of the need to address it effectively. At the same time, protecting and assisting persons who remain within the borders of their own State still is a sensitive and challenging issue, for which no easy and ready-made international strategies exist.

2. Kosovo, East Timor, Chechnya, crises which have dominated the headlines this past year, illustrate that the global crisis of internal displacement is increasing, with new situations continuing to emerge and responses to them varying significantly. Meanwhile, longer-standing situations such as in Afghanistan, Angola, Burundi, Colombia, Sri Lanka and the Sudan continue to deteriorate. Others, in Azerbaijan and Georgia, for example, stagnate without durable solutions in sight. Still others, as in Algeria, Myanmar and Turkey, are occurring largely outside of international view.

3. On the positive side, in the past few years, greater awareness and understanding of this tragic phenomenon have led to important developments in the normative and institutional frameworks which have set the stage for improved responses at the international, regional, national and local levels. And yet, millions of internally displaced persons the world over remain in desperate need of assistance and, especially, protection. Their plight provides a sobering indication that notwithstanding the progress achieved to date, considerable work remains to be done.

4. This report provides both an overview of developments in the work of the mandate over the past year as well as an indication of where greater efforts are required. It is organized into five substantive sections, specifically concerning: the Guiding Principles on Internal Displacement; the institutional framework; the country focus; an agenda for research; and future directions for the mandate.

I. THE GUIDING PRINCIPLES ON INTERNAL DISPLACEMENT

5. Recalling the relevant norms of international human rights instruments, international humanitarian law and refugee law, the Commission has recognized that the protection of internally displaced persons has been strengthened by identifying, reaffirming and consolidating specific rights for their protection and assistance, in particular through the Guiding Principles on Internal Displacement (E/CN.4/1998/53/Add.2). The Guiding Principles, the formulation and content of which have been detailed in previous reports, set out the rights and guarantees under international law relevant to the protection of internally displaced persons in all phases of displacement. This past year, an annotated version of the Principles which explains the legal provisions upon which they are based has been prepared by Dr. Walter Kälin, chair of the legal team that assisted the Representative in drafting the Principles, and has recently been published by the American Society of International Law and the Brookings Institution Project on Internal Displacement.

6. In addition, the development of the Guiding Principles has been the focus of one of a number of case studies undertaken within the framework of the Global Public Policy Project, directed by the Representative and Wolfgang Reinicke of the World Bank, which forms part of a United Nations Foundation project entitled "Visioning the UN". Prepared by Simon Bagshaw, the case study examines the collaborative nature of the process of developing the Guiding Principles, which brought together a broad range of governmental, intergovernmental and non-governmental actors. On the basis of the findings of this and other case studies, the Global Public Policy Project aims to develop proposals on how the United Nations could play a lead role in strengthening or, when necessary, launching similar networks to address specific policy issues.

A. Recent responses to the Principles

7. At the last session of the Commission, and further to its request, the Representative reported on the views on the Guiding Principles expressed to him by Governments, intergovernmental organizations and non-governmental organizations (NGOs) (E/CN.4/1999/79, paras. 14-34). Views subsequently expressed are presented below.

8. The General Assembly previously had acknowledged the Guiding Principles in the context of its consideration of agenda items concerning the rights of the child and the Office of the United Nations High Commissioner for Refugees (UNHCR).[1] However, owing to the biennialization of the agenda item on internally displaced persons, it was only at its most recent session that the Assembly commented on the Principles in some detail. In resolution 54/167 adopted at its fifty-fourth session, the General Assembly noted the development by the Representative, on the basis of his compilation and analysis of legal norms, of a comprehensive framework for the protection of internally displaced persons, in particular the Guiding Principles on Internal Displacement.[2] As had the Commission, the Assembly welcomed the fact that the Representative has made use of the Guiding Principles in his dialogue with Governments and intergovernmental and non-governmental organizations, and requested him to continue his efforts in that regard. Furthermore, the Assembly noted with appreciation that United Nations agencies and regional and non-governmental organizations are making use of the Principles in their work and encouraged the further dissemination and application of the Principles.

9. The Security Council is another forum in which views on the Principles have been expressed. This has occurred in the context of the Council's focus this past year on the issue of the protection of civilians in armed conflict. With armed conflict being the principal cause of internal displacement and protection the most critical need of the populations affected, the plight of the internally displaced proved to be a key concern raised in the consideration of this theme. The Statement by the President of the Security Council (S/PRST/1999/6), made after the Council's first consideration of the issue in February 1999, expressly referred to internally displaced persons as among the vulnerable groups of civilians. A number of speakers underscored the importance of a normative framework for ensuring their protection (see S/PV.3977). The representative of Canada highlighted the emergence of new standards to address the changing nature of conflict, for example, with respect to the internally displaced. The representative of the United Kingdom praised the codification of principles regarding internally displaced persons and stressed the need for a mechanism to ensure that these are observed. The representative of the Gambia expressed the hope that in the year of the

fiftieth anniversary of the Geneva Conventions, the international community would adopt an appropriate normative framework for internally displaced persons. The Special Representative of the Secretary-General on Children and Armed Conflict, emphasizing the gravity of the situation of the internally displaced, stressed the urgency of doing so.

10. To further its consideration of the item, the Council requested the Secretary-General to prepare a report containing concrete recommendations on ways in which it could improve the physical and legal protection of civilians in situations of armed conflict, including by identifying contributions that the Council could make towards the effective implementation of existing humanitarian law and examining whether there are any significant gaps in existing legal norms (see S/PRST/1999/6). In his report to the Council (S/1999/957), the Secretary-General identified internal displacement as one of the issue areas in which there were gaps in existing international law. It was noted that in the absence of a specific international legal framework spelling out the rights and freedoms of internally displaced persons, the Representative had compiled the Guiding Principles on Internal Displacement based on existing instruments in international humanitarian and human rights law. The Secretary-General recommended that the Security Council encourage States to follow the legal guidance in the Guiding Principles in situations of mass displacement.

11. In the discussion of the Secretary-General's report (S/PV.4046 and Resumption 1 and Corr.1 and Corr.2 and Resumption 2), the representative of Canada stated its full support for the Secretary-General's focus on addressing the rights and needs of internally displaced persons in situations of armed conflict. The representative of India noted that wide international acceptability of the Principles would be needed for the Council to encourage States to abide by them and that internal displacement is the responsibility of the States concerned. While concurring that the primary responsibility for the protection and assistance of internally displaced persons lies with the Government of the State concerned, the representative of the European Union, speaking also for Bulgaria, the Czech Republic, Estonia, Latvia, Lithuania, Poland, Romania and Slovakia, supported the wider use of the Principles in the work of the United Nations at the country level.

12. In a separate debate of the Council focusing on children and armed conflict, the Special Representative of the Secretary-General on this issue underlined the need and the urgency of the international community to find a way to provide more systematic protection and practical support to the millions of persons, most of whom are women and children, presently displaced within their own national borders. Towards this end, he called for the wide dissemination and use of the Guiding Principles by Governments, parties in conflict and the humanitarian community (see S/PV.4037).

13. The Economic and Social Council also has continued to devote attention to the issue of normative standards relating to internal displacement, in particular in the context of its second Humanitarian Segment held in Geneva in July 1999. The Secretary-General, in his report to the Council on strengthening of the coordination of emergency humanitarian assistance of the United Nations (A/54/154-E/1999/94), noted that direct attacks on civilian populations, in flagrant violation of international humanitarian law and human rights law, and leading to massive forced displacement and loss of life, constituted the most serious challenges to humanitarian agencies. Stressing that the environment for humanitarian action can be improved

through the development and dissemination of international laws and norms relating to the rights of civilians, the Secretary-General noted that the Guiding Principles have quickly begun to gain authority and international standing. Reference was made to the active dissemination of the Principles, to the organization by the Representative, international agencies and NGOs of regional meetings to discuss their application in the field, and to the use of the Principles by regional organizations. The Council, in its agreed conclusions 1999/1, called on all States to apply internationally recognized norms with regard to internally displaced persons. It also took note of the fact that the Inter-Agency Standing Committee (IASC) is using the Guiding Principles.

14. The Executive Committee (ExCom) of UNHCR is another forum in which views on the Principles have been expressed. This past year, at the fiftieth session of ExCom, the representative of Norway stressed the need to ensure respect for international humanitarian law and human rights law in order to better protect the internally displaced and referred to the Guiding Principles as a useful and welcome tool in this regard. The representative of Sweden stated that the Guiding Principles should be effectively implemented and called on UNHCR to keep the Standing Committee of ExCom informed of this matter. The representative of the United States indicated that the plight of internally displaced persons was among its priority concerns. In particular, it expressed concern about the "uneven and too often inadequate protection currently afforded" to the internally displaced, stressing that the United Nations system as well as Member States must develop more predictable responses for ensuring that internally displaced persons receive the care and protection they need. The work of the Representative in developing the Guiding Principles and advocating close cooperation among the relevant organizations of the United Nations, the International Committee of the Red Cross (ICRC), NGOs and States was commended. The United Nations High Commissioner for Human Rights, in her statement to ExCom, also highlighted the usefulness of the Principles and referred to Colombia as an example where the Office of the High Commissioner for Human Rights (OHCHR) and UNHCR are working closely to support national protection mechanisms for the internally displaced. UNHCR, in its Note on International Protection (A/AC.96/914), elaborated upon the example of Colombia, noting that its programme to reinforce the legal, policy and institutional frameworks for internally displaced persons in this country centres around the implementation of the Guiding Principles, with linkages to broader efforts to uphold international humanitarian law and to strengthen respect for human rights. In the Conclusions on International Protection adopted by the meeting (A/AC.96/928, sect. III.A) ExCom reiterated the relevance of the Guiding Principles and reaffirmed its support for UNHCR's role with internally displaced persons on the basis of the criteria specified by the General Assembly (ibid., para. 20 (t)).

15. The twenty-seventh International Conference of the Red Cross and Red Crescent, held in Geneva from 31 October to 6 November 1999, which focused on improving the care and protection of victims of armed conflicts and natural disasters, also placed special emphasis on the normative framework for the protection of internally displaced persons. The Plan of Action adopted by the Conference sets out a number of measures in this regard.[3] In the conduct of hostilities, and in addition to the total ban on direct attacks against the civilian population and civilian objects, every effort is to be made by the parties to a conflict to spare, protect and respect the civilian population, with particular measures for groups with special vulnerabilities, including displaced persons. Parties to an armed conflict are to take effective measures to ensure

that actions provoking unwarranted population displacements are avoided. If displacement occurs, they are to ensure that displaced persons are respected and protected, that appropriate assistance is provided to them and that they are able to return voluntarily, in peaceful conditions and in safety to their home or to resettle voluntarily elsewhere. Towards the goal of providing for the rights and acute needs of the most vulnerable people as the first priority for humanitarian action, the Plan of Action states that National Societies, the International Federation of Red Cross and Red Crescent Societies and ICRC, taking note of the Guiding Principles on Internal Displacement, may offer their services on behalf of internally displaced persons and are to extend their support to States in fulfilling their obligations to assist and protect internally displaced persons. The representative of Austria, in remarks made in the plenary session on the theme of strategic partnership to improve the lives of vulnerable people, called upon all States to implement the Guiding Principles through increased cooperation with National Societies.

16. OHCHR and the special mechanisms of the Commission, for their part, have continued to be engaged in the promotion and application of the Guiding Principles. The Principles formally were presented by the Representative to his colleagues at the annual meeting of special rapporteurs/representatives and independent experts held in Geneva in May. The discussion on the Principles was very positive, with a number of the participants noting the relevance and usefulness of the Principles to their work as well as the importance of mechanisms of the Commission being engaged in addressing the protection needs of the internally displaced. A number of the country-specific as well as thematic special rapporteurs and independent experts have begun to refer to the Guiding Principles in their reports and urgent appeals. Plans are under way for the Representative to also present the Guiding Principles to the treaty bodies and to provide them with relevant information on situations of internal displacement in the countries under consideration. The Commission has welcomed the attention paid by relevant special rapporteurs, working groups, experts and treaty bodies to issues of internal displacement and has called upon them to continue to seek information on situations which have already created or could create internal displacement and to include relevant information and recommendations thereon in their reports and make them available to the Representative.

17. The Guiding Principles also were placed on the agenda of the second annual meeting of the heads of OHCHR field presences held in Geneva in September. The Principles already had been disseminated by the Office to all staff, including those in the field presences, last year. The purpose of the discussion on the Guiding Principles held at the meeting of the heads of field presences was to review the experience of field staff in dealing with internally displaced persons, the role they might play in improving the international response to their protection needs and the operational and other requirements necessary to strengthen such a role. The review of OHCHR field presences conducted in 1998 by the High Commissioner's Special Adviser, Ian Martin, had recommended that OHCHR, in cooperation with the Representative, play an active role in inter-agency discussions aimed at a better field response to the plight of internally displaced persons and that this should be reflected in the mandate and working arrangements of the field presences. A project to support the field presences in this regard, and having the promotion and application of the Guiding Principles as its cornerstone, is being developed by the Office. The Commission has called upon the High Commissioner to develop projects in the framework of the Office's programme of advisory services and technical cooperation to promote the human rights of internally displaced persons.

18. Regional organizations also have continued to devote attention to the Principles. The Organization of African Unity (OAU) Ministerial Meeting on Refugees, Returnees and Displaced Persons in Africa held in Khartoum in December 1998, had recommended that the Guiding Principles be submitted to the OAU Commission on Refugees for consideration at its next session. In accordance with this request, the Representative was invited to present the Principles to the OAU Commission on Refugees at its thirtieth session, held in Addis Ababa in June 1999. The climate of discussion on the Principles proved to be positive and constructive, with virtually all speakers prefacing their comments with an expression of appreciation of the Representative's preparation of the Principles and their presentation to this forum. A call was made for increased awareness in Africa of the Principles, with the suggestion that a promotional campaign, including seminars, workshops and round tables, be launched by OAU and other relevant actors for that purpose. The meeting ended its discussion of the item by taking note of the Principles with interest and appreciation.

19. This decision of the OAU Commission on Refugees then was submitted to the OAU Council of Ministers at its seventieth ordinary session held in Algiers in July. The OAU Secretary-General, in his report on the above-mentioned session of the Commission on the situation of refugees, returnees and displaced persons in Africa, highlighted the decision of the Commission taking note of the Guiding Principles with interest and appreciation. The report also provided an overview of the aforementioned workshop held in Addis Ababa in October 1998, making express reference to the emphasis of the workshop on the need to promote the dissemination and application of the Guiding Principles throughout Africa and to explore the role of Africa's regional and subregional organizations in addressing the problem of internal displacement.

20. In the Americas, the Inter-American Commission on Human Rights of the Organization of American States (OAS) has welcomed and expressed its full support for the Guiding Principles, noting that they are the most comprehensive restatement of norms applicable to the internally displaced and, as such, provide authoritative guidance to the Commission on how the law should be interpreted and applied during all phases of displacement. The Commission as well as its rapporteur on internally displaced persons have begun to apply the Principles in their work.[4]

21. The Organization for Security and Cooperation in Europe (OSCE) has circulated the Principles among its participating States and to its Human Dimension seminar concerning the role of the OSCE field missions in human rights work. The OSCE Office for Democratic Institutions and Human Rights (ODIHR) is collaborating with the Representative in convening seminars on the Principles in OSCE countries affected by internal displacement (see subsection C below). Moreover, the Representative has been invited to make a formal presentation of the Principles to the OSCE this year.

22. NGOs have continued to be especially active in promoting the Guiding Principles and applying them to their work with the displaced. Amnesty International has begun to systematically apply the Principles in monitoring and making recommendations for improving responses to situations of internal displacement the world over.[5] The Norwegian Refugee Council (NRC) continues to promote the Principles through its various activities on internal displacement, of which a number will be elaborated upon throughout this report. National NGOs

also have been active in promoting and applying the Guiding Principles to their country context. In the Philippines, for example, the Ecumenical Commission for Displaced Families and Communities (ECDFC) has convened a forum discussion on the Principles[6] and, in collaboration with NRC, recently held a training workshop on them (see below, subsection C).

B. Dissemination and application of the Principles

23. Both the Commission and the General Assembly have noted with appreciation that United Nations agencies and regional and non-governmental organizations are making use of the Guiding Principles in their work and have encouraged the further dissemination and application of the Principles. Regarding dissemination, a number of initiatives undertaken this past year illustrate the global reach of these efforts as well as the partnerships among United Nations agencies, NGOs and Governments that these involve. The reproduction by the Office for the Coordination of Humanitarian Affairs (OCHA) of the Guiding Principles in booklet form is now available in English, French, Spanish and Portuguese and has been disseminated widely throughout the world. Multiple copies of these booklets have been sent to the OHCHR field presences in the relevant languages. In Georgia, OCHA has reproduced in booklet form the translation of the Principles into Georgian that was undertaken last year by a local NGO with the support of UNHCR. In Sri Lanka, UNHCR has worked with OCHA to reproduce the booklet in Sinhalese and Tamil. In Colombia, UNHCR and the office of the Defensor del Pueblo (Ombudsman) jointly have reproduced a booklet containing the Guiding Principles in Spanish as part of a public awareness campaign on the grave situation of internal displacement in that country. In the Philippines, the Guiding Principles have been reprinted as a booklet by the local NGO ECDFC with the support of UNHCR, the Office of the Presidential Adviser on the Peace Process, the United Nations Information Centre and the Philippines Human Rights Information Centre, for the stated purpose of reaching out to government leaders, lawmakers, parties involved in armed conflicts and land intrusions, NGOs and all those involved in the phenomenon of internal displacement.

24. Globally, a number of materials have been developed this past year to promote application of the Principles. At the request of international agencies and NGOs, the Representative commissioned a Handbook for Applying the Guiding Principles on Internal Displacement that spells out the meaning of the Guiding Principles in non-technical language. Prepared by Dr. Susan Forbes Martin, an expert in forced migration, with the support of the Brookings Institution Project on Internal Displacement, the Handbook was reviewed by representatives of United Nations agencies and NGOs at a meeting convened by OCHA in New York in April. The Handbook, with a foreword by the Representative, will be published by OCHA.

25. The Handbook will be disseminated by OCHA as part of a package which will also include a Manual of Field Practice in Internal Displacement: Examples from UN Agencies and Partner Organizations of Field-Based Initiatives Supporting Internally Displaced Persons. The Manual, which contains more than 60 examples of field programme initiatives supporting application of the Guiding Principles, aims to stimulate practitioners in their own programme design for addressing the needs of the internally displaced. Prepared under the direction of the

United Nations Children's Fund (UNICEF), with the support of OCHA and the office of the Representative, the Manual was finalized at an expert meeting in March. It is being published by OCHA with a foreword by the Emergency Relief Coordinator (ERC).

26. The need for training in the legal norms dealing with the protection of and humanitarian assistance to internally displaced persons was among the recommendations of IASC in its Review of the Capacity of the United Nations System for Humanitarian Assistance of 15 October 1998. Shortly after these recommendations were finalized, the IASC Task Force on Training reaffirmed the need for inter-agency training material on internally displaced persons. In the last year, concrete steps have been taken to develop such training material. OCHA was requested to collect and evaluate relevant existing training material and, in collaboration with the Representative, to develop a proposal of what was still required. The draft modules developed by NRC and OHCHR, which were tested at the above-mentioned workshop in Uganda, were among the existing training materials to be drawn upon in the development of an inter-agency training package. In May, a meeting among IASC focal points on internally displaced persons reviewed the proposal and endorsed UNICEF and NRC acting as focal points for the development of the training package.

27. The objectives of the training package are: to promote the Guiding Principles, to increase sensitivity to the protection, assistance and development needs of internally displaced persons, and to improve responses to those needs. Middle-level management and programming field staff of international agencies and NGOs as well as government authorities with responsibilities for the internally displaced comprise the target audience. The subjects to be covered by the training modules are: the definition of internally displaced persons; the legal origins of the Guiding Principles; the institutional framework; and the different phases of displacement - protection from arbitrary displacement, protection during displacement, and durable solutions of return or resettlement and reintegration. Staff from a number of IASC members and partner agencies, including OHCHR, are involved in the preparation of the modules, which will be reviewed at an expert meeting and submitted to IASC for review in the spring of 2000. Of course, training on the Guiding Principles and internal displacement must go beyond the IASC framework to reach all those with a role to play in addressing the plight of the internally displaced. The recent request of the Security Council for the Secretary-General to ensure that United Nations personnel involved in peacemaking, peacekeeping and peace-building activities have appropriate training in international humanitarian, human rights and refugee law (Security Council resolution 1265 (1999)), is relevant in this regard.

28. Seminars and workshops on the Guiding Principles are another means of promoting their dissemination and application. The Commission has welcomed the fact that the Representative has made use of the Guiding Principles in his dialogue with Governments and intergovernmental organizations and NGOs, in particular in the framework of seminars on displacement, and has requested him to continue in that regard. Specific mention was made of the seminar held under the auspices of OAU in Addis Ababa in 1998. The report of this workshop was presented, to the Commission at its last session (E/CN.4/1999/79/Add.2). It also has been reproduced, along with the various papers presented as well as a foreword by the Representative, in a special issue of Refugee Survey Quarterly, published by UNHCR.[7]

29. Since the last session of the Commission, additional such seminars and workshops have been planned or indeed have already been held in other regions of the world. From 27 to 29 May 1999, a Workshop on Implementing the Guiding Principles on Internal Displacement was held in Bogotá, Colombia, co-sponsored by the Brookings Institution Project on Internal Displacement, a consortium of local NGOs working with the internally displaced (Grupo de Apoyo a Organizaciones de Desplazados (GAD)), and the United States Committee for Refugees (USCR). The workshop brought together government officials, local NGOs, international NGOs and agencies, and representatives of internally displaced communities for the purposes of analysing the situation of internal displacement in Colombia on the basis of the Principles and discussing strategies for enhancing their application. A final declaration of the seminar prepared by GAD acknowledged the relevance of the Guiding Principles to the situation of internal displacement in Colombia, noting that they set out the minimum standards that should be respected and guaranteed, and stressing the importance of putting the Principles into practice. Government representatives at the workshop pledged to hold meetings with NGOs in order to develop strategies in this regard. The proceedings of the workshop have been published by GAD in the Spanish volume Memorias.[8] An English summary of the workshop report is contained in Addendum 2 and also has been published by the Brookings Institution Project on Internal Displacement.

30. In February 2000, a regional conference on internal displacement in Asia will be held in Bangkok. Co-sponsored by UNHCR, the Brookings Institution Project, the NGO consortium Forum Asia, NRC and USCR, the conference will be hosted by the Asian Research Centre for Migration of Chulalongkorn University and Forum Asia. The purposes of the conference will be: to promote the dissemination and application of the Guiding Principles; to share information on internal displacement in the Asian region, including its causes and impact, and identifying "good practices" in addressing the problem at the local, national, subregional and regional levels; to encourage greater attention to the problem by regional and subregional organizations; and to promote linkages and networking within the region towards the development of more regular and systematic documentation and monitoring of the problem. Representatives of local and international NGOs and of academic and research institutions as well as journalists from 15 Asian countries and territories (Afghanistan, Bangladesh, Cambodia, China, East Timor, India, Indonesia, the Lao People's Democratic Republic, Malaysia, Myanmar, Nepal, Pakistan, Philippines, Sri Lanka and Thailand) will be invited to participate, along with the Representative, representatives of regional organizations, international organizations and international experts. A report of the workshop, along with the papers presented, will be published in a forthcoming edition of Refugee Survey Quarterly. The report of the workshop also will be submitted to the Commission at its next session.

31. In May, a regional workshop on internal displacement in the South Caucasus is being planned in Tbilisi. Co-sponsored by OSCE/ODIHR and the Brookings Institution Project, the workshop will focus on the situation of the estimated 800,000 internally displaced persons in Azerbaijan, Armenia and Georgia who have been uprooted for several years now but lack a durable solution to their plight. The specific purposes of the workshop are: to inform Governments and NGOs in the region of international standards on internal displacement and to promote their application in the region; to stimulate the development of institutional and legal frameworks for addressing internal displacement and to reinforce the work of those in Government and civil society who are interested in strengthening local and national capacities;

to identify "best practices" at the local, national, regional and international levels; and to focus the attention of the international community on the plight of the internally displaced in this region. Freedom of movement, safe return, alternatives to return, property compensation and restitution, political participation and the particular needs of internally displaced women and children are among the specific issues to be addressed. The Representative, who by the time of the workshop is to have visited all three countries concerned, will share the findings of his country missions on these and other issues (see E/CN.4/1999/79/Add.1 and below sect. IV). In addition to the Representative, participants are to include local NGOs, academics and lawyers, government officials dealing with the issue of internal displacement or forced migration, representatives of displaced communities, representatives of international organizations and NGOs working in the region and international experts on the specific issues to be addressed. It is to be hoped that the workshop will play an important catalytic role in encouraging dialogue between government officials and NGOs, helping to depoliticize the issue, promoting durable solutions for the displaced, and reinforcing the capacities of local organizations.

32. Additional workshops and seminars on internal displacement are currently being considered at the subregional or country level in Africa, as a follow-up to the workshop on internal displacement in Africa held in Addis Ababa in October 1998. The need for increased awareness of the Principles in Africa, in particular through a promotional campaign including seminars, workshops and round tables, was highlighted in the aforementioned recent discussion on the Guiding Principles by the OAU Commission on Refugees.

33. The convening of regional workshops on internal displacement will continue to be a priority area of activity of the Brookings Institution Project, which the Representative co-directs. In addition, the Representative is also encouraging others to host such workshops. NRC has been particularly active in this regard. At the request of the Government of Uganda and in cooperation with OHCHR, it organized a workshop on the Guiding Principles in Kampala last March.[9] The objectives of the workshop were: to promote, disseminate and operationalize the Principles in Uganda; to promote dialogue among members of the internally displaced community, local NGOs, international organizations and NGOs and governmental authorities on the protection and assistance needs of internally displaced persons in the country; and to encourage organizations working with the displaced to share among themselves their work experience and best practices. Workshop participants, which included political and military authorities, local NGOs and human rights experts, representatives of internally displaced communities and representatives of international humanitarian and development agencies operating in the country, agreed that the Principles should be disseminated widely to all relevant actors, including by means of radio programming and the translation of the Principles into local languages. In addition, local-level training workshops for the military, representatives of internally displaced communities, Church leaders and NGOs on the Guiding Principles and human rights were advocated. The international community was called on to assist such promotional and training activities through the mobilization of resources and the provision of technical assistance.

34. Building upon the success of the workshop in Uganda, NRC is supporting similar such workshops in other countries. In November, it co-sponsored with the local NGO ECDFC a workshop in the Philippines on the Guiding Principles.[10] Participants in the workshop included government officials, local NGOs and representatives of relevant international agencies. Both

the Representative and the OHCHR staff person supporting his mandate also had been invited to attend the workshop and, as indicated in the Representative's report to the General Assembly (A/54/409, para. 49), were planning to attend. However, at the request of the Government, their trip to the country to participate in the workshop had to be cancelled. That the Representative be invited to conduct an official visit to the Philippines to dialogue with the Government on the situation of internal displacement and to jointly seek ways of supporting implementation of the Guiding Principles was among the recommendations of the workshop.

C. Need for a monitoring mechanism

35. While continuing to encourage these various efforts to monitor and promote application of the Principles, the time has now come to also consider mechanisms for doing so more systematically. The need for a mechanism to ensure that the Principles are being observed was stressed by the representative of the United Kingdom in the debate in the Security Council on the protection of civilians in armed conflict. The Representative, in a recent article in the Forced Migration Review (January 2000), has formally called for monitoring machinery for the Principles. Indeed, it is to be hoped that over the next decade monitoring machinery will be created at the international, regional and national levels so as to promote the widest and most effective implementation of the Principles worldwide. A number of different types of machinery for encouraging and monitoring the implementation of non-binding standards already exist. Options in this regard, as well as other next steps to promote the application of the Principles worldwide, will be considered at a meeting of experts to be hosted by the Government of Austria in September 2000.

II. TOWARDS AN AGREED AND SYSTEMATIC INTERNATIONAL FRAMEWORK FOR PROTECTION

36. As the Guiding Principles affirm, responsibility for ensuring the protection of internally displaced persons rests primarily with the national authorities. The Security Council recently has reaffirmed this in resolution 1265 adopted following the consideration of the issue of the protection of civilians in armed conflict. Yet, as the Secretary-General has pointed out in his report on this issue, it is also often the case that the guarantees found in international human rights law and humanitarian law for the protection of the displaced are disregarded. National authorities may even be unwilling to acknowledge the existence of internally displaced persons. They may also obstruct international efforts to assist and protect them. Non-State actors, for their part, often prove unwilling or unable to meet the protection needs of the displaced. Moreover, in many recent cases, combatants have relied on, and indeed profited from, civilian displacement. Under such circumstances, the internally displaced fall into a vacuum of national responsibility and become of concern to the international community.

37. The international response, however, has not been sufficiently effective, especially in the area of protection of physical safety and human rights. In his 1997 Programme for Reform, the Secretary-General underscored that providing protection and assistance to internally displaced persons is a humanitarian issue that continues to fall into the gap between the existing mandates of the various agencies. To be sure, and as detailed in last year's report to the Commission, a number of important steps have been taken towards filling that gap, especially through the framework of the IASC under the leadership of the ERC. Yet, as has been highlighted in the

Security Council's recent discussions of the protection of civilians in armed conflict, there remains a need to develop an agreed framework for providing protection to internally displaced persons more systematically.

A. Paper on the protection of internally displaced persons

38. An essential first step towards developing such a framework is a clear understanding of the meaning of protection for internally displaced persons. So concluded the High Commissioner for Human Rights, the Emergency Relief Coordinator and the Representative in a meeting held among them in 1998 to discuss their respective roles in ensuring protection for the internally displaced. A joint paper on the protection of internally displaced persons which subsequently was prepared by their offices and shared with the IASC-WG in January 1999 has since served as the basis for the preparation of an IASC-wide policy paper on the issue.[11] Endorsed by IASC in December 1999, this paper breaks important ground in the international response to internal displacement.

39. Confronted by the harsh reality of civilians suffering - and often being deliberately targeted with - grave violations of human rights of often-unimaginable scale and horror, it is now widely recognized that international responses to crisis situations must address not only assistance needs but also concerns of physical security. The establishment of human rights field presences in such situations reflects such concerns. However, the severely limited resources and access to populations in need that they face necessitate that other actors become actively engaged in protection as well. And yet, while many humanitarian and development organizations have come to be convinced of the need to broaden their activities in this direction, the precise nature of their protection role remains at an early stage of formulation. The IASC policy paper on the protection of internally displaced persons represents the first concerted attempt by international human rights, humanitarian and development organizations to grapple with this problem.

40. Drawing upon the meaning of protection for civilians in armed conflict and, by analogy, for refugees, the paper begins with what is a first attempt by the international community to define protection for internally displaced persons, based on the guarantees set out in the Guiding Principles. It then identifies a number of areas of activity aimed at ensuring that these standards are indeed met, including: dissemination and promotion of the Guiding Principles; advocacy; monitoring and reporting; early warning and response; supporting and strengthening local and national protection capacities; training on internal displacement; integrating protection in the design of assistance as well as return or resettlement and reintegration programmes; and the establishment of effective coordination mechanisms.

41. While reiterating that it is first and foremost the responsibility of national authorities to ensure protection for and provide assistance to the internally displaced and persons at risk of displacement, IASC also assigns a protection role to international agencies and NGOs by noting, for instance, that "[a]ll agencies providing humanitarian assistance to internally displaced persons have a responsibility to consider how the design and implementation of their assistance activities might best contribute to promoting protection of the internally displaced". In an annex to the paper, individual IASC organizations outline the protection role that they now play with the displaced. Recognizing that the scale and multifaceted nature of internal displacement crises

necessitate a collaborative approach among international actors, the IASC paper concludes by setting out basic principles aimed at increasing the predictability and comprehensiveness of response in specific country situations.

42. The formulation and adoption of the paper is an important step toward focusing attention on protection and encouraging greater international protection activities for internally displaced persons. As stated in its introduction, it "is part of a growing effort on the part of international organizations to address more proactively the needs of internally displaced persons, to assess and analyse those needs, and to act when the rights of internally displaced persons are being violated". Indeed, it will be in the responses of the international community to specific situations of internal displacement where the impact of this significant development at the policy level will be most important. The country-by-county review of the effectiveness of international coordination arrangements on internal displacement that has begun to be undertaken by OCHA should be most helpful in assessing the extent to which IASC policy translates into effective protection on the ground.

B. Global IDP Database

43. Another important development towards a more systematic response to the global crisis of internal displacement is the creation of a global information management system on internal displacement. The establishment of a mechanism for systematically collecting, receiving and disseminating information on internal displacement long has been advocated by the Representative and encouraged by the Commission. This past year, this project has come to fruition, most notably with the public launching on 10 December 1999 of the Global IDP Database. Out-sourced by IASC to NRC, the database is designed to serve as an information centre on internal displacement as well as a centralized archive of reference material on the issue. Specifically, it has the following objectives: to offer central access to information regarding internally displaced persons; to support the mandates of IASC, ERC and the Representative through the provision of up-to-date, accurate information on internal displacement in a standardized format; to assist humanitarian organizations in field operations by complementing existing information networks; to contribute to the harmonization of information management practices on internal displacement by promoting common standards for data collection, common definitions of indicators and standard methodology; to become a major NGO focal point for advocacy and information on the protection and assistance needs of the internally displaced; and to assist in measuring the impact of the Guiding Principles by monitoring situations of internal displacement worldwide.

44. The process of data collection is being conducted according to an incremental approach. In the first phase, information is being gathered from sources currently available in the public domain, including the country mission reports of the Representative. Phase two, which already has begun, involves a more proactive approach to data collection, in particular through the expansion of information sources and the development of an information network of focal points from national and international NGOs, United Nations agencies, academic institutions and regional organizations engaged in the issue of internal displacement. These focal points will be encouraged to submit information for inclusion in the database. Information-sharing frameworks with IASC members, including OHCHR, currently are being explored.

45. The database is organized into country profiles. These, in turn, are organized by themes, namely: the background and causes of displacement; population profiles and figures; patterns of displacement; protection concerns; subsistence needs; access to education; issues of self-reliance and public participation; documentation needs and citizenship; issues of family unity, identity and culture; property issues; patterns of return and resettlement; humanitarian access; and national and international responses. For each country, there exists a summary providing an overview of the findings in each of these thematic areas. Links to the sources cited in the country profile (including full-text electronic links where available) also are provided, making the database an invaluable research tool.

46. In December, the database was launched publicly on the Internet (www.idpproject.org) with 14 country profiles: Afghanistan, Angola, Azerbaijan, Bosnia and Herzegovina, Burundi, Colombia, Democratic Republic of the Congo, Myanmar (Burma), Peru, Sierra Leone, Somalia, Sri Lanka, Sudan and Uganda. Additional country profiles will continue to be added over the coming year and eventually all countries affected by internal displacement (currently estimated at over 50) are to be included. It is expected that country profiles regarding crisis situations will be updated regularly, while other situations will be revised at least twice a year.

47. Regularly updated information on situations of internal displacement is essential to ensuring that specific situations of internal displacement warranting the attention of the international community are not overlooked or forgotten. Having long advocated the development of an integrated information system on internally displaced persons and especially now, having seen a preview of the Database, the Representative is all the more convinced that a comprehensive global information system on internal displacement, as contained in the Database, is a prerequisite to enhancing responses to the needs of internally displaced persons worldwide. Financial support in order to enable the maintenance and further development of the Database is thus essential.

III. THE COUNTRY FOCUS

48. The effectiveness of developments in the response to the global crisis of internal displacement will be measured first and foremost by the actual conditions on the ground. Country missions provide the Representative with the opportunity to assess the conditions of the displaced firsthand and advocate for improvements. To date, the Representative has undertaken 14 country visits, to Azerbaijan, Burundi, Colombia (twice), El Salvador, Mozambique, Peru, the Russian Federation, Rwanda, Somalia, Sri Lanka, the Sudan, Tajikistan and the former Yugoslavia.

A. Follow-up mission to Colombia

49. This past year, the Representative undertook a follow-up visit to Colombia, two reports about which are presented as addenda 1 and 2 to this report. Since the Representative's first visit to Colombia in 1994, the situation of internal displacement has deteriorated significantly and now affects as many as 1.5 million persons. According to figures recently released by UNHCR, Colombia has the third largest population of internally displaced persons in the world, after the Sudan and Angola.[12] Moreover, the number of internally displaced in Colombia continues to grow. And yet, though the displacement problem is greater in numerical terms than in other

situations, such as East Timor, Kosovo or Chechnya, in Colombia it is essentially a "silent" crisis, suffering from insufficient attention at both the national and international levels. Having reassessed the situation first-hand and witnessed its rapid deterioration in recent years, the Representative is all the more convinced that this crisis simply must not continue to be overlooked.[13]

50. To be sure, in recent years the Government of Colombia has begun to undertake measures towards improving its response to internal displacement, including by increasing its awareness of the problem, recognizing violence as the cause of displacement, adopting legislation, designating institutional mechanisms to address the problem and inviting international assistance. Nonetheless, the Representative found that most of the recommendations of his 1994 visit (see E/CN.4/1995/50/Add.1) remain relevant today. The legislation adopted suffers from a lack of implementation as well as comprehensiveness in meeting the needs of the displaced. Institutional responsibilities, especially for protection and prevention, require clearer definition. Unreasonable rules govern the process by which the displaced become "certified" as such, with the effect of impeding for many their access to assistance, medical care, education and other public services. There remains a need for greater decentralization of responsibility, commensurate with resources, for the internally displaced.

51. As displacement is also now being used as a strategy of war, an end to the conflict is essential to halting the upward trend in the number of persons displaced in Colombia and to finding a durable solution for the hundreds of thousands already uprooted. In this connection, the peace process initiated by President Pastrana and his concurrence with the Representative that displacement should be made a key element of the human rights and humanitarian components of the peace process are bold and most welcome moves that merit international support. At the same time, measures must be taken to address the pressing and present needs of the internally displaced. Elements of a comprehensive strategy to this end should include: effective responses by the authorities to prevent and protect against arbitrary displacement, especially when this is forewarned; respect by combatants of international humanitarian law and the protection it provides for the civilian population; protection of the physical security of the displaced and those advocating on their behalf; timely and adequate assistance to address the needs of the displaced, including for food, water, shelter, medical care, documentation, education, training and income-generation, with special attention paid to the particular needs of women and children who make up the majority of the displaced; guarantees of physical safety for the return or resettlement of the displaced; and restitution or compensation for possessions, land and property lost as a result of displacement.

52. The international community, for its part, needs to enhance its response to what is clearly a humanitarian crisis. Of particular importance is an increased international presence in the country, especially outside of the capital, as a means of helping to protect against arbitrary displacement and to monitor conditions of safety in areas of return or resettlement. The work of ICRC and of the NGO Peace Brigades International already has proven that the presence of international personnel among populations at risk can have a protective effect. Greater international presence, especially in outlying areas, is required. The recent decision of UNHCR to expand its presence beyond Bogotá through the establishment of three field offices is thus a most welcome initiative. OHCHR is encouraged, as the Representative previously has recommended, to actively explore with the Government the possibility of doing likewise.

53. The need to increase international presence was among the recommendations that the Representative made to IASC-WG in its recent discussion on the situation of internal displacement in Colombia. Other main recommendations to the international community were to recognize the situation as a humanitarian crisis and to ensure greater attention to protection and assistance needs. OCHA, which had accompanied the Representative on his mission, presented IASC-WG with a report containing recommendations for improving international coordination arrangements to address the plight of the internally displaced. Following an in-depth discussion of the findings and recommendations of the Representative and OCHA, IASC-WG noted that the humanitarian component of the country team should be strengthened. It encouraged OCHA to provide support to UNHCR in facilitating inter-agency coordination on internal displacement. Furthermore, IASC-WG acknowledged the fundamental role played in Colombia by ICRC and stressed the importance of avoiding duplication of efforts, especially regarding protection and the dissemination of international humanitarian law. In an important development following this discussion, two OCHA professionals whose function will be to support UNHCR in facilitating coordination of the international response to the situation of internal displacement are expected to be in place in early 2000.

54. It is to be hoped that the full set of the Representative's recommendations to the Government and the international community for addressing the situation of internally displaced in Colombia more effectively will be given due regard and implemented without delay. The Commission has thanked Governments, which have invited the Representative to visit their countries, and encouraged them to follow up on his recommendations and suggestions and to make available information on measures thereon.

B. Follow-up on visit to Azerbaijan

55. Last year, the Representative presented to the Commission a report on his mission to Azerbaijan, undertaken in May 1998 (E/CN.4/1999/79/Add.2). At the time of the Commission's consideration of the report, the Representative met in Geneva with government officials to discuss the findings of the report and receive information on developments since the mission. The Representative was informed that on 17 September 1998, the President of Azerbaijan issued a decree setting out the Government's revised strategy for addressing the plight of the hundreds of thousands of persons internally displaced in the country. Two new developments are of particular note. First, internally displaced persons residing in camps, settlements or public buildings who originate from areas that are still partially occupied are to be offered the opportunity to relocate to compact settlements in the "liberated" parts of these districts, and thus close to their home areas, and with access to land suitable for farming and the raising of livestock. Second, the living conditions of those internally displaced persons remaining in camps and public buildings are to be improved by creating income-generating opportunities and, where needed, continued provision of humanitarian assistance. These developments are in keeping with a number of the Representative's recommendations, including that: durable solutions, including resettlement and self-reliance, be supported; income-generating opportunities be created; and humanitarian assistance continue to be provided to those in need.

56. Further rethinking of the national as well as international response to internal displacement, in particular to support more durable solutions, occurred in the context of a meeting convened jointly by the Government, United Nations organizations and the World Bank

The convening of such a meeting among relevant government officials, international humanitarian and development agencies, and the diplomatic community for the purpose of devising a common strategy for meeting the immediate, medium and long-term needs of the internally displaced was among the key recommendations of the Representative's mission.

57. The Representative is encouraged by these developments and looks forward to receiving more detailed information on their implementation, in particular in preparation for the workshop on internal displacement in the South Caucasus in which he will be participating in May.

C. Future missions

58. Looking ahead, a number of country missions are planned for the coming year. A joint mission to Georgia and Armenia, which was scheduled to have taken place in the autumn of 1999 but was postponed at the request of the Government of Georgia, is to take place in May 2000, following the seminar on internal displacement in the South Caucasus.

59. In February, the Representative is planning to undertake a mission to East Timor, as requested by the Commission at its special session on this situation. The Commission, in its resolution S-4/1, expressed deep concern at the widespread forced removal and dislocation of persons to West Timor and other nearby areas and at the serious humanitarian situation of the displaced East Timorese, particularly children and other vulnerable groups, who have been deprived of food and access to basic health services. It called upon the Government of Indonesia to guarantee the voluntary return of all refugees and displaced persons, including those who have been forcibly displaced to camps in West Timor, and to ensure immediate access by humanitarian agencies to displaced persons, with guarantees for the security and free movement of humanitarian personnel. Although the return process has since gotten under way, a number of the Commission's concerns, especially relating to humanitarian access to displaced persons in camps in West Timor, remained relevant at the end of 1999. The Representative will share the findings of his mission with the Commission at its current session (addendum 3 to the present document).

60. As indicated in last year's report, the Representative has written to the Governments of Angola and Turkey to request an invitation to study first-hand the situation of internal displacement in those countries. This past year, the Representative submitted a similar request to the Government of Mexico. He has also indicated his interest in undertaking a follow-up visit to Sri Lanka. To date, responses to these requests have not been received. The Commission has called upon all Governments to facilitate the activities of the Representative, in particular those Governments facing situations of internal displacement which have not yet extended invitations or responded positively to requests from the Representative for information.

D. Statements of concern: Kosovo, East Timor, Chechnya

61. As noted to the Commission on previous occasions, the countries upon which the Representative has been able to focus attention through country visits are, paradoxically, those that acknowledge the problem and are cooperative insofar as they permit the Representative to

study it first-hand. And yet, countries with serious situations of internal displacement that deny the problem or bar access cannot shield themselves completely from international scrutiny. Indeed, refusing access often tends to have the opposite effect by giving greater cause for concern that gaps exist in the Government's response, thereby only heightening the need for international attention. To draw attention to such situations, different approaches are required (see sect. IV below). One approach that the Representative has begun to use is the issuance of statements of concern.

62. At the time of the Commission's consideration of this agenda item last year, the Representative issued a public statement calling for greater attention to what was referred to as the "hidden side" of the Kosovo tragedy.[14] While world attention was gripped - and rightly so - with moving images of mass exodus from Kosovo, into Albania and the former Yugoslav Republic of Macedonia, beyond the range of the television cameras were hundreds of thousands of internally displaced persons trapped inside Kosovo who desperately needed international protection and assistance, and many of whose tragic fate is now only being discovered. Thus, though the crisis in Kosovo rose to the top of the international agenda and elicited an unprecedented forceful response by outside States, it also revealed a critical gap in the international protection for internally displaced persons.

63. The Kosovo crisis also laid bare the selectivity of international responses to situations of forced displacement, and in two important ways. First, in the global sense, overriding regional interests meant that an unprecedented amount of attention and assistance were devoted to this crisis while others further afield, especially in Africa, continued to suffer from a severe lack of resources. Secondly, events subsequent to the mass exodus of Kosovar Albanians last spring have reinforced the need for increased security and reconciliation in societies wracked by ethnic violence if further displacement is to be avoided: while most of the refugees rapidly returned over the course of the summer, this was followed by the mass displacement of ethnic Serbs and Roma, whose right to remain in safety and to return also warrants international concern.

64. In the case of East Timor, on 8 September 1999 the Representative, along with a number of other thematic mechanisms of the Commission, namely the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on torture and the Chairman-Rapporteur of the Working Group on Arbitrary Detention, issued a joint urgent appeal to the Government of Indonesia as well as a press statement on the situation.[15] Concern was expressed about the massive violations of human rights occurring in East Timor and the alleged collusion between elements of the security forces and the militias. Particular reference was made to the information received on the occurrence of killings, the widespread infliction of torture and other forms of ill-treatment, involuntary or enforced disappearances, the forced displacement of some 200,000 persons at the time and reports of individuals being prevented from fleeing. Attention was drawn, inter alia, to the Guiding Principles on Internal Displacement, with specific reference to their provision for protection against arbitrary displacement, protection and assistance during displacement, safe return and resettlement, and access to humanitarian assistance. Information was requested of the Government on steps taken to ensure the protection of the right not to be arbitrarily displaced, the right to physical and mental integrity and the right to life. To date, no answer has been received from the Government.

65. On 20 December 1999, the Representative issued a statement on the situation in Chechnya, which had at the time resulted in the forcible displacement of more than 250,000 persons.[16] Given that the overwhelming majority of the displaced remained within the borders of the Russian Federation, principally in Chechnya and Ingushetia, the Representative emphasized that responsibility for meeting their assistance and protection needs rests first and foremost with the Government of the Russian Federation. The Representative therefore called upon the Government to assume this responsibility and to address a number of concerns regarding their protection and safety and access to adequate supplies of basic essentials such as food, clothing, medical care and adequate shelter in Ingushetia and Chechnya. The Representative called upon the Russian authorities to observe the Guiding Principles on Internal Displacement. Subsequently, in January, the Representative met with representatives of the Government in New York to discuss the concerns raised in his statement and the situation of internal displacement resulting from the conflict in Chechnya. The Representative was provided with written information concerning Russia's military operations in the region and on the response of the Government in the humanitarian area to the conflict situation.

IV. EXPLORING NEW ISSUES

66. Although the major task of studying the global crisis of internal displacement and existing legal and institutional frameworks for addressing it is largely complete, there nonetheless remain areas where additional research and thinking are required, several of which are outlined in the following paragraphs.

67. First, there is a need for strategic thinking on how to approach the problem of internal displacement when it occurs in countries that either do not acknowledge the problem or do not permit international involvement with displacement within their borders. Clearly, it is not acceptable that countries experiencing serious problems of internal displacement should be able to evade international scrutiny and, in some cases, also deny their internally displaced populations international assistance and protection. This issue was explored at a conference co-sponsored by the Brookings Institution Project on Internal Displacement and USCR in Washington, D.C. in January 1999. Bringing together representatives of United Nations agencies, NGOs and academic institutions, the discussions focused on the situations of internal displacement in Algeria, India, Myanmar and Turkey, on which background papers had been prepared. The country report on Turkey has since been published by USCR under the title, The Wall of Denial: Internal Displacement in Turkey, and contains a series of recommendations for the Government and the international community for more effectively addressing the problem.[17] Reports on India and Myanmar are forthcoming. In addition, an article about the conference will be published in the Forced Migration Review in January 2000.

68. Another subject requiring exploration is how to address the problem of internal displacement in areas not under government control. In particular, questions of how to hold non-State actors accountable to international standards and principles arise. The Guiding Principles recognize not only States but all other authorities, groups and persons as having responsibilities for protecting and assisting internally displaced populations. However, effective strategies for disseminating and promoting application of the Principles among non-State actors

still need to be developed. This issue has begun to be discussed in the context of the regional seminars on the Guiding Principles, for instance at the Addis Ababa workshop where the expertise of ICRC in this regard was drawn upon.

69. Further deliberation on the issue has taken place in the context of a workshop on the responsibilities of armed groups towards civilians, which was convened in Geneva in December 1999 by the Henri Dunant Centre for Humanitarian Dialogue, in cooperation with the Human Security Programme of the Harvard Centre for Population and Development Studies. The workshop, in which the office of the Representative participated, brought together representatives of Governments, United Nations agencies, the Red Cross Movement and NGOs to consider three main questions related to the role of non-State actors in the protection of civilians: how to ensure compliance with humanitarian principles; how to enforce such principles in cases of violations; and how to negotiate humanitarian access. Promoting the compliance of non-State actors with the Guiding Principles on Internal Displacement will be examined by the Brookings Institution Project this year.

70. A third theme of ongoing research explores donor policies towards the issue of internal displacement, in particular by examining the nature of the specific activities they fund, through bilateral and multilateral assistance, for addressing the plight of internally displaced persons. As a first step, the Brookings Institution Project commissioned a paper on the response of the United States Government to internal displacement.[18] The paper was reviewed at a meeting with representatives of the United States Government, in which the Representative participated, and which was held in Washington, D.C. in September 1999 and co-hosted by the Brookings Institution Project and USCR. Among the paper's recommendations are: the holding of congressional hearings to identify gaps in the United States Government's response; an executive branch policy directive to clarify United States objectives and institutional responsibilities; and the selection of a lead government institution to promote a coordinated response plan when there are situations of massive internal displacement. Further consultations are being held with United States Government officials about these recommendations within the framework of the Government's review of its humanitarian response structure. Through these consultations, officials are becoming increasingly sensitized to the need to integrate internal displacement more fully into human rights, humanitarian and development initiatives. Similar activities regarding other donors are envisaged for the coming year.

71. The particular needs of internally displaced women and children continue to be relevant as women and children constitute the majority of internally displaced populations. The Commission, it should be noted, has welcomed the specific attention paid by the Representative, over the course of his mandate, to the special assistance, protection and development needs of internally displaced women and children and has encouraged him to continue to draw attention to these needs. Most often this occurs in the context of country missions, during which the Representative makes a point of meeting with internally displaced women separately to discuss with them their specific concerns and those of their children. The mission report on Colombia (addendum 2), for example, contains information and recommendations in this regard.

72. Still, more systematic and in-depth attention to the special needs of women and children and to the strategies for addressing such concerns is required. To this end, sessions of the regional workshops and seminars on internal displacement are being devoted to the special needs

of internally displaced women and children. Another important initiative was the Expert Meeting on Gender Dimensions on Internal Displacement that was hosted by UNICEF in June 1999, and in which the office of the Representative participated.[19] Also relevant is the work this past year of the IASC sub-working group on Gender and Humanitarian Assistance, in which the office of the Representative participated. The background paper, entitled "Mainstreaming gender in the humanitarian response to emergencies", prepared by the sub-working group and presented to IASC, devotes considerable attention to the issue of internal displacement, as does the policy statement on the issue that was subsequently adopted by IASC. It will be important for the IASG-WG to build upon these initiatives in the course of its work on recommending ways and means to promote more effective assistance and protection to internally displaced persons, in particular the vulnerable groups among them, including certain categories of women and children. Disabled internally displaced persons as well as those in need of psychological counselling are still other vulnerable groups among the displaced to whom the Representative plans to devote greater attention.

73. An additional issue requiring exploration concerns the subject of political participation. In the first part of the Compilation and Analysis of Legal Norms it is observed that among the many deprivations they face, internally displaced persons are often denied the opportunity to participate in governmental and community affairs, and that their loss or confiscation of identification papers and/or property may be a contributing factor.[20] The ability to participate in governmental and public affairs can have important implications in enabling internally displaced persons to influence and possibly ameliorate the authorities' responses to their needs. The office of the Representative currently is preparing a research paper on this critical but largely overlooked issue. The paper, which will be published by the Brookings Institution Project on Internal Displacement, will be particularly relevant to the Representative's upcoming mission to Georgia, where voting rights for internally displaced persons are of concern, as well as to the regional seminar on internal displacement in the South Caucasus which will also be examining the issue of political participation.

74. The issue of housing and property restitution for internally displaced persons is yet another area requiring additional research. The Sub-Commission has noted the importance of this issue confirming that the adoption or application of laws which are designed to or result in the loss or removal of tenancy, use, ownership or other rights connected with housing or property, the active retraction of the right to reside in a particular place, or laws of abandonment employed against refugees and internally displaced persons pose serious impediments to the return and reintegration of refugees and internally displaced persons and to reconstruction and reconciliation (resolution 1998/26). It has urged all States to ensure the free and fair exercise of the right to return to one's home and place of habitual residence by all refugees and internally displaced persons and to develop effective and expeditious legal, administrative and other procedures to this end, including fair and effective mechanisms designed to resolve outstanding housing and property problems.

75. The Commission, in its resolution 1999/47 on internally displaced persons, noted the Sub-Commission's resolution and encouraged it to continue its work on this matter. Noteworthy in this regard is the invitation of the Sub-Commission to UNHCR, in consultation with OHCHR, to develop policy guidelines to promote and facilitate the right of all refugees and, if appropriate to UNHCR's mandate, internally displaced persons, to return freely, safely and voluntarily to

their homes and places of habitual residence (resolution 1998/26). To this end, in November 1999 UNHCR convened an expert consultation on housing and property restitution issues for refugees and internally displaced persons. The office of the Representative participated in this meeting and distributed an informal note identifying, on the basis of the Compilation and Analysis, the pertinent legal norms for the internally displaced and providing examples of relevant findings from the Representative's country visits.

76. Looking ahead, concerns relating to housing and property restitution will be examined during the Representative's mission to Georgia, where the secondary occupancy of the homes of internally displaced persons presents a major obstacle to durable solutions. These issues will also be discussed within the context of the regional seminar on internal displacement in the South Caucasus.

V. FUTURE DIRECTIONS FOR THE MANDATE

77. In last year's report to the Commission, reference was made to a series of consultations held under the auspices of the Brookings Institution Project to discuss new strategies and directions for the work of the mandate. This broad-based process, which benefited from the expertise and insight of experts and officials engaged with the issue of internal displacement from both inside and outside the United Nations, put forth a number of innovative ideas, from which the Representative has reached two main conclusions. First, there is a need to intensify the focus on specific situations of internal displacement, including by increasing the number of country visits and focusing greater attention on follow-up to the recommendations made. To this end, the Representative, whose post is part-time and voluntary, plans to devote more time to the mandate in the year 2000 with the concurrence of the Brookings Institution where he serves as Senior Fellow for Africa. He is also in the process of seeking additional support to enable him to undertake more than the two to three missions that the budget of OHCHR for the special procedures mechanisms of the Commission allows. Second, as a related point, additional staff support is required to support the Representative's activities. In this connection, the Representative is grateful to the Government of Norway for its support of a research assistant to his mandate and to UNHCR for recently having seconded for the period of one year a Professional, based in OCHA, to support the activities of the mandate in New York. The ongoing support of the Brookings Institution Project continues to be invaluable to the work of the mandate, most notably in the sponsorship, with the support of United Nations agencies, regional organizations and NGO partners, of the seminars and workshops on the Guiding Principles, and in identifying and exploring new areas of needed research.

VI. CONCLUSION

78. Building upon the awareness that has been raised about the global crisis of internal displacement, the international community must now devote its attention to ensuring that the Guiding Principles, widely recognized as requiring observance in situations of internal displacement, are systematically applied. The time has come to go beyond ad hoc responses and to agree on a clear legal and institutional framework for protecting internally displaced persons. Their precarious plight, as highlighted in the country situations in this report and in the unpredictability of national and international responses, underscore the urgency of translating the normative and institutional frameworks created thus far into actual protection on the ground.

Such is the challenge that the mandate of the Representative and its partners in the United Nations system, regional organizations, the non-governmental community and governmental sphere face in the years to come.

Notes

[1] See, respectively, General Assembly resolutions 53/128 and 53/125.

[2] The compilation and analysis of legal norms was published as: E/CN.4/1996/52/Add.2, (also as Internally Displaced Persons: Compilation and Analysis of Legal Norms, Human Rights Study Series No. 9, United Nations publication, sales No. E.97.XIV.2) and E/CN.4/1998/53/Add.1.

[3] Available on http://www.redcross.alertnet.org/en/conference/proceedings.asp.

[4] See, for example, Inter-American Commission on Human Rights, Third Report on the Human Rights Situation in Colombia (26 February 1999), chap. VI.

[5] See, for example, the following reports by Amnesty International: FEDERAL REPUBLIC OF YUGOSLAVIA. A Human Rights Crisis in Kosovo Province, Document Series B: Tragic Events Continue No. 4: The Protection of Kosovo's Displaced and Refugees, AI Index 70/73/98 (October 1998); UGANDA. Breaking the Circle: Protecting Human Rights in the Northern War Zone, AI Index AFR 59/01/99 (17 March 1999); EAST TIMOR. Seize the Moment, AI Index ASA 21/49/99 (21 June 1999); MYANMAR. Aftermath: Three Years of Dislocation in the Kayah State, AI Index ASA/16/14/99 (June 1999); RUSSIAN FEDERATION: CHECHEN REPUBLIC. Humanity is Indivisible, AI Index EUR 46/38/99 (November 1999).

[6] See Ecumenical Commission for Displaced Families and Communities (ECDFC) Monitor, vol. 13, No. 6 (November-December 1998), pp. 12-17.

[7] Refugee Survey Quarterly, vol. 18, No. 1 (UNHCR Centre for Documentation and Research and Oxford University Press, 1999).

[8] Memorias: Seminario de divulgación en Colombia de los Principios Rectores de los Desplazamientos Internos, Santa fé de Bogotá, 27 al 29 de mayo, 1999 (Santa fé de Bogotá: Editorial Códice, 1999).

[9] See A Workshop on the Guiding Principles on Internal Displacement, 29 to 31 March 1999, Kampala, Uganda: Final Report (Norwegian Refugee Council, 1999).

[10] A full workshop report, to be published by the co-organizers, is forthcoming.

[11] The paper is to be published by OCHA in early 2000.

[12] UNHCR, "Principal countries for the world's internally displaced persons", Refugees, vol. 4, No. 117 (1999), p. 16.

[13] See Francis M. Deng, "Don't Overlook Colombia's Humanitarian Crisis", Christian Science Monitor (6 October 1999).

[14] "Secretary-General's Representative calls internally displaced persons hidden side of Kosovo tragedy", press release HR/99/29 (16 April 1999).

[15] "United Nations experts call on Indonesia to ensure protection of rights of East Timorese", press release HR/99/85 (8 September 1999).

[16] "Representative of the Secretary-General on internally displaced persons calls on the Russian authorities to observe the Guiding Principles on Internal Displacement", press release HR/99/121 (20 December 1999).

[17] The Wall of Denial: Internal Displacement in Turkey (Washington, D.C.: U.S. Committee for Refugees, 1999).

[18] James Kunder, "The U.S. Government and Internally Displaced Persons: Present, But Not Accounted For", (Washington, D.C.: Brookings Institution and U.S. Committee for Refugees, November 1999).

[19] UNICEF, Expert Meeting on Gender Dimensions of Internal Displacement, New York, 14-15 June 1999 (New York: UNICEF, Office of Emergency Programmes, 1999).

[20] Internally Displaced Persons: Compilation and Analysis of Legal Norms, op. cit., para. 350.

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SPECIFIC GROUPS AND INDIVIDUALS: MASS EXODUSES AND DISPLACED PERSONS

Report of the Representative of the Secretary-General on internally displaced persons submitted in accordance with Commission resolution 1999/47

Addendum

Profiles in displacement: follow-up mission to Colombia

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Annex: Map of Colombia

Introduction

1. The situation of internal displacement in Colombia is among the gravest in the world. There are over a million internally displaced persons in the country with new displacements continuing to occur. The vast majority of the displaced have been uprooted from their homes in the last few years because of the sharp deterioration in the security situation. The problem, however, is a long-standing one, stretching back decades.

2. Political violence associated with internal armed conflict and characterized by serious violations of international human rights and humanitarian law is the primary cause of displacement. However, displacement in Colombia is not merely incidental to the armed conflict but is also a deliberate strategy of war. Indeed, rarely is there direct confrontation among armed groups (that is, the paramilitaries, guerrilla groups, and the armed forces/police). Rather, these armed groups attempt to settle their scores by attacking civilians suspected of being associated with the "other" side, and they do so with such severity as to leave those whose physical security is threatened with no choice but to flee.

3. Yet, the threats to physical security which the displaced flee to escape often only follow them into the communities in which they seek refuge. The very fact of having fled typically only heightens suspicions of allegiance with a particular armed actor and intensifies the risk of being targeted. Stigmatized and fearing for their lives, many of the displaced seek safety in anonymity, attempting to blend into the communities of urban poor. Having abandoned their homes, property and livelihood for conditions of destitution and continued insecurity, they constitute an extremely vulnerable segment of society. At the same time, displaced persons have begun to organize to defend their rights, but the leaders of their organizations and those of the local non-governmental organizations who try to help them are increasingly being targeted and killed by armed groups.

4. On the positive side, if one could be said to exist under such tragic circumstances, the Government of Colombia now acknowledges the problem of internal displacement and has proven itself open to international cooperation for addressing it. Indeed, at the invitation of the Government, the Representative undertook a second official visit to Colombia from 20 to 27 May 1999. The visit was combined with the Representative's participation in a conference in Bogotá from 27 to 29 May on the "Application of the Guiding Principles on Internal Displacement in Colombia" which was co-sponsored by the Brookings Institution Project on Internal Displacement, the Colombian consortium of non-governmental organizations (NGOs) *Grupo de Apoyo a Desplazados* (GAD) and the U.S. Committee for Refugees. Representatives of the Government participated, along with representatives of international organizations and non-governmental organizations. The summary report of the workshop is contained in addendum 2.

5. The official visit was undertaken for the purpose of follow-up to the Representative's mission to the country in 1994 (see E/CN.4/1995/50/Add.1). The objectives of this visit were: to assess developments since the 1994 visit in light of the serious deterioration in the situation, to evaluate the extent to which the recommendations from the 1994 visit had been implemented, and to formulate new recommendations for addressing the current situation.

6. Using the Guiding Principles on Internal Displacement (E/CN.4/1998/53/Add.2) as a point of reference, the mission considered the needs and rights of the displaced as well as the responsibilities of the authorities and other relevant actors to address these needs in all phases of displacement - before displacement occurs, during displacement, and in the return and reintegration phase. Indeed, the Commission on Human Rights, in resolution 1998/50, which was adopted without a vote and co-sponsored by more than 50 States, including Colombia, took note of the Representative's intention to make use of the Guiding Principles in his dialogue with Governments as well as intergovernmental and non-governmental organizations; in resolution 1999/47, it welcomed the fact that the Representative had done so and requested him to continue efforts in this regard.

7. In Colombia, the Representative's use of the Guiding Principles as a basis for dialogue was well received by government officials. A number of them had indeed prepared in advance analyses of the situation of internal displacement in Colombia on the basis of the Guiding Principles. The Director of the Human Rights Unit of the Ministry of the Interior expressed the view that the Guiding Principles should be regarded as carrying a morally binding force.

8. During the course of the visit, the Representative engaged in constructive, candid dialogue with President Andrés Pastrana Arango and a number of government officials, including the Vice-President, the High Commissioner for Peace, the Minister and Vice-Minister for Foreign Affairs, the Vice-Minister of the Interior, the *Fiscal* (Prosecutor General), the *Defensor del Pueblo* (People's Advocate - Ombudsman), the Director of the Human Rights Unit of the Ministry of the Interior, the Manager of the Plan Colombia and the Assistant Director of the National Planning Department. On a number of occasions, the Representative met with the Vice-Minister of the Interior, a post which until March 1999 also was assigned the role of Presidential Adviser for the Displaced and the Manager of the *Red de Solidaridad Social* (Social Solidarity Network), the institution which just prior to the visit had been designated as the new government focal point for internal displacement. A scheduled meeting with the Minister of Justice and representatives at the national level of the Army and National Police was pre-empted by the resignation of the Minister of Defence. In Santander, Sucre and Bolivar departments, the Representative was received by regional and municipal authorities, including from regional offices of the *Defensoria del Pueblo*, *Personerias* (representatives of the Office of the Procurator at the municipal level) and members of the armed forces and police. During the mission, the Representative received the agreement of the President to meet with insurgent groups, who also consented to the proposed meeting, but in the end scheduling problems did not allow such a meeting to take place.

9. In a number of different forums, both in Bogotá and in the regions, the Representative had the opportunity to discuss the situation of internal displacement with officials from United Nations agencies and international NGOs. He also met with representatives of the diplomatic and international donor community. A meeting of the Resource Group, comprised of representatives of United Nations agencies and Colombian intellectuals, as well as discussions held with representatives of the Catholic Church, provided a very helpful analysis of the conflict in Colombia and of the peace process.

10. Several meetings were held with representatives of the internally displaced and with local NGOs involved with the displaced. During the visits to Santander, Sucre and Bolivar

departments, the Representative met with representatives of internally displaced communities from these departments, from the neighbouring department of Córdoba and from the Montes de María region. A number of the mayors in the department of Sucre with whom the Representative met were themselves internally displaced. A workshop held in Bogotá for internally displaced women from throughout the country devoted its closing session to sharing its recommendations and conclusions with the mission delegation. The Representative also visited internally displaced communities on the outskirts of Cartagena (Bolívar department), specifically in the Nelson Mandela *barrio* and the *Ciénaga de la Virgen* settlements.

11. The Representative notes with appreciation the cooperative approach displayed in his meetings with government officials and wishes to express his gratitude to all those who shared their insights and concerns on the situation of internal displacement in Colombia. Particularly noteworthy is the support provided throughout the visit by the United Nations Development Programme (UNDP), the Office of the United Nations High Commissioner for Refugees (UNHCR) and the Office of the High Commissioner for Human Rights (OHCHR). A special word of appreciation is also due to the Colombian non-governmental organizations, who provided extensive information and whose dedication and courage should be acknowledged.

12. The report is organized into four sections. Section I provides an overview of the current displacement crisis. Section II describes the national and international response. Section III identifies the gaps in the response in terms of the Guiding Principles. Each of these sections highlights changes that have taken place since 1994, some of which indicate progress while others reflect a worsening of the situation and the need for more concerted measures to address it. Conclusions and recommendations are provided in section IV.

I. OVERVIEW OF THE DISPLACEMENT CRISIS

A. Magnitude of the problem

13. At the time of the Representative's first mission, there existed no precise and agreed-upon statistics on the number of internally displaced persons in Colombia. While this remains true today, important efforts have been undertaken since 1994 to better assess the magnitude of the problem. In 1995, the Episcopal Conference of Colombia published a study on the problem of internal displacement in Colombia which, through a survey of 1,170 displaced persons in parishes throughout the country, estimated that 586,261 people had been displaced between January 1985 and August 1994.[1] As a follow-up to this study, the *Consultoría para los Derechos Humanos y el Desplazamiento* (CODHES) created an information system on displacement, known as SISDES and supported by the United Nations Children's Fund (UNICEF), to estimate the number of displaced on an annual basis. The following figures reflect the results of their estimates:

Year	New displaced	Total IDP population	% increase
1985-1994	586 261	586 261	-
1995	89 510	675 771	15
1996	181 000	856 771	26
1997	257 000	1 113 771	30
1998	308 000	1 421 771	28

14. According to these figures, 746,000 persons became internally displaced between 1996 and 1998, which is considerably higher than the Government's estimate of 381,755 for the same period.[2] As both CODHES and the Government stressed, these figures are merely statistical projections, which are by no means precise. However, the significant discrepancy between them is due to variations in methodological approaches, including the absence of common criteria for data collection. For instance, while for CODHES the main criterion used in its calculation is the factual situation of being internally displaced, the Manager of the Government's *Red de Solidaridad* noted that the figure used by his office counts only those displaced considered to be in need of attention. In a situation, such as in Colombia, of long-standing internal displacement stretching over decades, there also arises the question of when to stop counting persons as displaced. This is indeed a complex question. In the absence of clear guidelines as to when displacement ends, there is a need for a case-by-case approach taking into account situational factors determining the possibilities for return home or resettlement as a durable solution.[3] A further factor complicating calculations of the number of the internally displaced in Colombia is the reluctance of many of the displaced to identify themselves as such, for fear of further threats to their safety.

15. Estimates of the number of internally displaced persons cited over the course of the follow-up mission ranged from 300,000 to 1.5 million. The majority of independent observers with whom the Representative spoke tended to place the number at the higher end of this range, surpassing the 1 million mark. Notably, the Government's *Defensoria del Pueblo* cites the CODHES figure of 1.5 million displaced in the past 10 years. According to this figure, at least 1 in every 40 Colombians is internally displaced and, in global terms, Colombia has one of the largest populations of internally displaced persons in the world.

16. Commenting on the variation in figures, the Vice-Minister for Foreign Affairs suggested that assessing the magnitude of the problem of internal displacement was one task with which the Government could benefit from international assistance. It is worth noting in this regard that the establishment of a national information network on internal displacement is one element provided for in national legislation but which has yet to be fully implemented (see sect. II below).

17. While figures for the internally displaced in Colombia remain imprecise, what is undeniable is that the number has escalated, and at an exponential rate. The tracking by CODHES indicates a dramatic upward trend in the magnitude of the internally displaced population since 1994. The figures for 1998, marking a 28 per cent increase in the number of internally displaced from the previous year, would represent the most intense period of

displacement in more than a decade, involving approximately eight households displaced every hour that year.[4] The escalation in that time period of the conflict causing displacement, which is examined in the following section, would support this conclusion.

18. Finally, while there remains considerable scope for improvement in assessing the magnitude of the problem, far more important than precise figures of the number of the internally displaced is a recognition of, and adequate response to, their plight. In this regard, the Representative shares the view of the Vice-Minister of the Interior that "regardless of the number of internally displaced persons, they represent a humanitarian problem for which the Government has responsibility."

B. Conflict as the context of displacement

19. As in so many other situations that the Representative has studied, internal displacement in Colombia stems from political violence associated with armed conflict and characterized by serious violations of human rights and humanitarian law. As the historical overview of the long-standing conflict and displacement crisis was provided in the report of the first mission (E/CN.4/1995/50/Add.1, paras. 18-28), the focus here is on developments since 1994 which have had an impact on the displacement problem.

20. To begin with, it is important to recall the complexity of the conflict owing to the multiplicity of actors and interests involved. First, there are the State armed forces (comprising the army, navy and air force) and National Police, both of which are attached to the Ministry of Defence. Second, there are various paramilitary groups, organized under an umbrella group known as *Autodefensas Unidas de Colombia* (AUC). Paramilitary activity has grown significantly in recent years. Though no longer enjoying legal authority, as was the case from 1968 to 1989, paramilitary structures effectively were institutionalized during the previous administration through the existence of "special private security and vigilante services" (previously known as "Convivir") legally authorized to carry arms and perform functions of public order similar to those of the armed forces and police. These armed groups often have operated without effective control or adequate supervision on the part of the authorities and, as OHCHR reports, their activities are difficult to distinguish from those of the paramilitaries as "in many cases there are areas in which they coincide, converge or supplement or replace each other" (E/CN.4/1998/16, para. 92). It should be noted that beginning in 1998, the Government introduced measures modifying the functions of the armed groups and imposing stricter control of their activities, most notably by prohibiting their use of automatic weapons, which resulted in a reduction in the number of these groups. Third, there are the guerrilla forces which are organized into several distinct and autonomous groups. Foremost among these is the *Fuerzas Armadas Revolucionarios de Colombia - Ejército Popular* (FARC-EP), which is the strongest of the guerrilla forces militarily. Comparatively smaller and possessing less military strength is the *Ejército de Liberación Nacional* (ELN) and the *Ejército Popular de Liberación* (EPL). A significant guerrilla presence is reported in at least half of the municipalities in Colombia.

21. The systematic violations of human rights law and grave breaches of humanitarian law that characterize the conflict[5] are committed by all sides, but in recent years, paramilitary operations have been identified as causing most of the violations and displacement. Extrajudicial and arbitrary executions (often in the form of massacres or collective killings),

enforced disappearances, torture, hostage-taking and attacks against the civilian population and civilian targets are common features of the conflict. With the intensification of the conflict in recent years, these violations of human rights and humanitarian law have significantly increased, as has the displacement that they and the general situation of violence engender. Also related to the conflict, a large number of families have fled in order to avoid the forcible recruitment of their children by guerrilla forces.

22. One of the more important developments of recent years is that civilians have come to be considered by the parties to the conflict as a military objective, with the result that the non-combatant and protected status of the civilian population has become severely blurred. Areas are "cleansed" of the support base they are suspected of providing the "enemy" through the mass displacement of entire communities and then, especially when the land concerned is of strategic value in military or economic terms, are repopulated by supporters of the forces conducting the displacement. These mass displacements frequently are announced in advance, with those who fail to follow the order to move finding themselves at risk of massacre or other serious attacks upon their physical security.

23. Economic interests underlying the violence and conflict also are factors inducing displacement. As part of a process of so-called "counter-agrarian reform" (which at the time of the Representative's first mission in 1994 had resulted in an estimated 3 per cent of landowners controlling more than 70 percent of the arable land in the country), displacement is often a tool for acquiring land for the benefit of large landowners, narco-traffickers, as well as private enterprises planning large-scale projects for the exploitation of natural resources. The fact that most peasants do not possess legal title to the land makes them easy targets for this process, described by the *Defensor del Pueblo* as "land-reform taking place at gunpoint". OHCHR reports having received testimony from a number of small and medium-scale farmers "who have been robbed of their land by paramilitaries in the service of drug traffickers or local landowners, or who have had to sell their land cheaply before leaving the region under death threats" (E/CN.4/1998/16, para. 98). A similar pattern of displacement has also appeared in relation to the exploration and exploitation of natural resources and the implementation of large-scale development projects, in some cases concerning not strictly domestic economic interests but also the objectives of multinational corporations. It is thus not without coincidence that the areas where guerrilla and paramilitary activity is most intense tend to be rich in natural resources.

24. Since the Representative's last mission, significant changes have occurred with respect to responsibility for displacement, as the following figures compiled by CODHES demonstrate.

Year	Armed Forces and Police	Paramilitaries	Guerrillas	Others
1985-1994	27%	21%	32%	20%
1995	19%	35%	26%	20%
1996	16%	33%	28%	23%
1997	6%	54%	29%	11%

25. While the level of responsibility of guerrilla forces has remained relatively constant, since 1994, there has been a marked decrease in the level of responsibility of the armed forces and the police, and a simultaneous three-fold increase in the level of responsibility on the part of

the paramilitaries. Underlying and explaining this trend is the collaboration that exists between the paramilitaries and the armed forces and the police. In 1998, OHCHR reported that "a considerable number of the acts of violence by the paramilitaries are carried out with the tolerance, not to say complicity, of public servants, particularly members of the armed forces and National Police" (E/CN.4/1998/16, para. 90). In the words of the *Defensor del Pueblo*, paramilitary groups "have become the illegal arm of the armed forces and police, for whom they carry out the dirty work which the armed forces and police cannot do as authorities subject to the rule of law". Paramilitary activity thus represents "a new form of exercising illegal repression with no strings attached".[6] In 1999, the Chairperson of the Commission on Human Rights, in a statement on the situation of human rights in Colombia made on behalf of the Commission, urged the Government "to intensify to the maximum political, administrative, judicial and other appropriate measures on official bodies suspected of supporting 'paramilitary' groups".[7]

26. The imperative of ending the long-standing conflict was a central issue in the presidential elections of 1997. Since taking office in mid-1998, the Pastrana administration has given an important boost to the peace effort by engaging in a peace initiative with the FARC-EP. As part of this process, on 7 November 1998, President Pastrana ordered the withdrawal, for an initial three-month period, of the armed forces from five municipalities in the departments of Meta and Guaviare in the southern part of the country prior to the formal commencement of peace talks two months later. The period of withdrawal has since been extended several times. Serious allegations of arbitrary action by FARC in this area have underscored the importance of establishing within the framework of the peace talks minimum rules to be respected by the guerrilla forces in this zone.

27. On 6 May 1999, those engaged in the peace process issued a 12-point "Common Agenda for Change Towards a New Colombia" stressing the importance of a negotiated political solution to the conflict and including among its concerns respect for international humanitarian law, justice, political reform, a comprehensive agrarian policy and commitments to combat narco-trafficking and corruption. Unfortunately, the issue of displacement is not expressly included in the agenda.

28. Meanwhile, talks with ELN have taken place on an intermittent and ad hoc basis. Paramilitary groups, for their part, continue to express opposition to their exclusion from peace talks through terrorizing tactics, including the kidnapping of high-level public officials, as also occurred during the mission.

29. In the view of most observers with whom the Representative met, the peace process has yet to have a measurable impact in mitigating the level of violence associated with the conflict and thus in attenuating displacement. Indeed, reports received by the Representative since his follow-up mission indicate that violence has only continued to intensify, with new offensives in the summer of 1999 causing additional large numbers of people to flee in search of safety.

C. Patterns of displacement

30. The intensification and geographical expansion of the conflict in recent years has been mirrored by a widening of the displacement crisis to engulf almost the entire country (see map, annex), affecting all but a few isolated departments. The principally affected areas are

Antioquia, Bolívar, Santander, Córdoba, Magdalena, Chocó, César, Sucre, Meta, Putumayo, Valle de Cauca, Caquetá, Cauca and Guaviare. The forced displacement in Antioquia accounts for 25 per cent of the national total.

31. An examination of the profile of the population affected reveals that displacement is a plight principally of the more marginalized sectors of society. As was the case in 1994, the victims of displacement are predominantly peasants, or *campesinos* as they are known, living in areas of paramilitary or guerrilla influence. Particularly affected are members of the country's indigenous and Afro-Colombian communities, especially in the departments of Chocó, Antioquia, Córdoba, Cauca, Meta, Caqueta and Guaviare, where large numbers of these populations are concentrated. The Emberá-katio indigenous peoples of the region of Alto Sinú in the department of Córdoba have been at particularly high risk, having faced constant threats and with many of their leaders having been killed. At the same time, the phenomenon of "political cleansing", which targets trade union leaders, political activists, community leaders, mayors and town council members, judges and public prosecutors, journalists, human rights activists, teachers and other segments of the urban population, has resulted in an increasing number of these groups of people joining the ranks of the displaced.

32. Women and children continue to make up the vast majority - approximately 80 per cent - of the displaced. Some 58 percent of the internally displaced are women while 55 per cent are under 18 years of age. According to a December 1998 report of the *Defensoria del Pueblo* and UNICEF, at least 620,000 children have been affected by displacement. The attention given to the plight of internally displaced children by the Special Representative of the Secretary-General on Children and Armed Conflict during his mission to Colombia, which immediately followed that of the Representative, is most welcome.[8] Displacement has the effect of eroding traditional family structures, particularly as a result of male members of the family having been killed, having disappeared or being compelled to seek safety or work elsewhere. An estimated 36 to 39 per cent of displaced households are headed by women.[9]

33. Patterns of flight continue to be predominantly from rural to urban areas. Moreover, in a phenomenon known as "intra-urban displacement", displacement to urban areas tends to occur incrementally, as continued threats to their physical security and inadequate responses to their assistance needs compel the displaced to flee from smaller cities to increasingly larger centres. A large number ultimately make their way to Bogotá (it is estimated that 37 displaced families arrive in the capital city every day) and other major cities including Medellin, Cartagena and Barranquilla. Within the cities, the displaced tend to be concentrated in the slums and shanty towns, where they find themselves among the poorest of the urban poor. Others may be accommodated by family members for extended periods of time. On account of their rural origins, the displaced typically experience difficulties in adapting to urban life.

34. While people used to flee mostly as individuals or in small family groups, since 1997 there has been an increasing number of collective and mass displacements, often of entire communities. Accounting for this trend is the fact that displacement has become more organized, frequently occurring in compliance with a specific order issued by armed actors for communities to move, as opposed to more spontaneous flight to escape threats to physical security. One of the more notorious situations of mass displacement occurred in the Magdalena

Medio region, in the southern part of the department of Bolivar when, in June and July 1998, some 10,000 persons from 17 different municipalities were displaced to Barrancabermeja. There, they remained in overcrowded and desperate conditions for over three months before their return which also proved highly problematic (see sect. III.C.).

35. An important change in the pattern of displacement has been the advent in 1997, for the first time in Colombia, of camp-like settings of internally displaced persons, such as the camp in Pavarando (Antioquia) and the concentration of internally displaced persons in the coliseum in Turbo (Antioquia). Though the considerable media coverage of the Pavarando camp, where internally displaced persons languished in impoverished conditions for up to two years, served to raise awareness of the phenomenon of internal displacement in Colombia, it also laid bare the inadequate response on the part of the authorities to addressing the phenomenon of mass displacement.

36. Another noteworthy development is the advent of an international dimension to the displacement crisis as a result of cross-border flight. Though the militarization of border areas and the existence of natural obstacles such as mountains, rivers and jungles continue to make it difficult for the displaced to flee the country, the number attempting to do so has noticeably increased. In the first half of 1997, a deterioration of the security conditions in the border areas began to prompt the flight of large numbers of persons into Panama and, subsequently, Venezuela and Ecuador. However, most of the displaced who manage to reach these countries are not recognized as refugees but as undocumented migrants, many of whom are sent back against their will.[10] The development of the displacement crisis to involve an element of cross-border flight has had important implications for the international response, namely the involvement of UNHCR, which will be discussed below.

II. NATIONAL AND INTERNATIONAL RESPONSE

A. The Government of Colombia

37. At the time of the Representative's first mission in 1994, the problem of internal displacement in Colombia was just beginning to be recognized by the Government. There was no clear policy on internal displacement and uncertainty prevailed regarding the magnitude of the problem and the appropriate response. Moreover, a lack of coordination within the Government and between the Government and the international community hampered the existing response. There was also a need for harmonizing the perspectives and activities of the central and local organs of the Government and for improving relations between the authorities and the non-governmental community which were characterized by mutual suspicion and lack of cooperation. The Representative's recommendations to the Government focused on addressing these concerns, in particular by increasing awareness of the problem, encouraging formulation by the Government of a policy on internal displacement, calling for better coordination within State institutions and between the State and the international community, and advocating cooperation between the Government and NGOs.

38. The Representative found during his follow-up mission that progress had been made since his last visit in the response of the national authorities to the situation of internal displacement. To begin with, there is greater awareness on the part of the Government of the

crisis of internal displacement in Colombia and of its responsibility for addressing it. Most notably, on 9 September 1994, Colombia's National Human Rights Day, President Samper acknowledged the problem of internal displacement and the State's responsibility to address it.[11] The Pastrana administration has reaffirmed this.

39. Recognition by the Government of its responsibilities towards the internally displaced has been reflected in a number of policy documents. The National Council for Economic and Social Policy (CONPES) - an entity in the executive branch - adopted in 1995 a "National Programme for Comprehensive Attention to the Population Displaced by Violence".[12] Although the document incorporated a number of the recommendations of the Representative and of the Permanent Consultation on Internal Displacement in the Americas (CPDIA), the programme suffered from a number of structural problems, in particular, as the authorities acknowledged, "difficulties with inter-institutional management and coordination, information, and funding".[13]

40. In an effort to address these shortcomings, in May 1997 the National Programme was amended in a second CONPES document which provided for a national "system" for addressing the problem of internal displacement and set forth a strategy of prevention, immediate assistance, and "consolidation and socio-economic stabilization". This was adopted by the Ministry of the Interior, the Presidential Adviser for the Displaced (a post established by decree on 28 April 1997), the Presidential Adviser on Human Rights, the Presidential Adviser for Social Policy and the National Department of Planning.[14]

41. The programmes put forward in the two CONPES documents as well as policy initiatives contained in various government decrees were then formalized, and consolidated in a National Plan for the Internally Displaced, in law 387, adopted by Congress on 18 July 1997.[15] Six months later, specifically on 26 January 1998, detailed proposals for the implementation of law 387 were set out in a plan of action issued by Presidential decree.[16] In March of that year, a further decree provided for the allocation of 40 billion pesos (US$ 30.7 million) for addressing the problem of internal displacement in accordance with law 387.[17] Another relevant policy document is the National Development Plan for 1999-2002 which includes attention to the internally displaced in the context of the development of areas affected by the armed conflict.

42. The institutional structure provided for in the second CONPES document and law 387 is three-tiered. First, there is the National Council for Comprehensive Assistance to the Displaced comprised of senior government officials and chaired by a delegate of the President.[18] This consultative body is responsible for the design of national policies on internal displacement and for securing the requisite financial resources for the implementation of these policies. Second, 15 specialized national institutions are responsible for the actual implementation of national policies. Third, committees on internal displacement are to be created at the various levels of local government (municipality, district, department). Chaired by the civil authority (governor or mayor) and with a membership that comprises representatives of the local military authority, the police, the civil defence authority, the health authority, the family welfare agency, the Colombian Red Cross and the Church, as well as two representatives of internally displaced communities, these committees are responsible for supporting the national system for the displaced at the local level.

43. In order to assist the work of these three institutional tiers and to evaluate the effectiveness of the National Plan for the Internally Dislaced, law 387 also provides for the creation of a National Information Network on Internal Displacement. The Network is intended to provide information on national as well as regional trends and to facilitate a quantitative analysis of the phenomenon of forced displacement and the formulation of measures for providing assistance, protection and durable solutions to the internally displaced. For the purpose of information gathering, municipal focal points are to be established and non-governmental entities encouraged to participate.

44. Law 387 further provides for the creation of a monitoring mechanism on forced displacement (Observatorio del Desplazamiento interno por la Violencia) comprised of experts, which would serve as an analytical and consultative body. The Observatorio is required by law to submit analytical reports on the magnitude of forced displacement, its varied trends and the results of State policies seeking to respond to it.

45. The Government has thus made appreciable progress since the Representative's first visit in the design of public policies and the elaboration of legislative and institutional frameworks for addressing the situation of internal displacement. Where the Government response falls seriously short, however, is in the area of implementation. In practice, the national system for response to internal displacement has been very slow to take shape. As the Government itself has acknowledged, there are a number of structural impediments to the implementation of its policies: at the central and local levels institutional responsibilities have not been fully assumed, technical and financial resources have been inadequate to enable institutions to fulfil their responsibilities, and there has been a lack of coordination among institutions.[19]

46. Regarding the incomplete assumption of institutional responsibilities, part of the problem stems from the fact that law 387 requires *"reglamentación"*, that is, an elaboration of the modalities of implementation. Without this, government authorities, at all levels, lack a clear definition of their responsibilities. Indeed, authorities at the departmental and municipal levels indicated to the Representative that the lack of specificity on how to implement government policy was one of the main constraints they faced. Guidelines as to how the authorities should address the issue of internal displacement are clearly needed in order to avoid what officials described as the "random action" characterizing the response to date. Though some initial efforts have been undertaken towards the *reglamentención* of law 387, it is critical that this process be completed.

47. It is also important to ensure the establishment and effective functioning of the new institutional mechanisms provided for in the law. At the time of the mission, and almost two years after its creation, the National Council for Comprehensive Assistance to the Displaced still had not met, despite the express requests of individual members that it do so. Given that the National Council is responsible for the design of national policies on internal displacement and the securing of effective resources for their implementation, the continued delay of its meeting necessarily impedes the effective functioning of the system as a whole. At the local level, in a number of cases, the departmental and municipal committees have been slow to take shape. Meanwhile, though efforts towards the establishment of the National Information Network had begun through the design (with the assistance of the International Organization for Migration (IOM)) of the necessary software, this initiative has also not been followed through. Moreover,

though the importance of the Observatorio continues to be recognized by the Government, no concrete action has been taken towards its creation. The establishment of the Observatorio would ensure an ongoing assessment both of the problem of internal displacement and the response to it, by bringing together experts outside the Government to evaluate the Government's response.

48. The need for greater coordination among the central and regional as well as local authorities that was apparent during the Representative's first visit regrettably remains. Both national and local authorities stressed to the Representative their difficulties in communicating with one another. Indeed, it was striking to hear the authorities in the regions speak of the "Government" as though they were not part of it. Given the responsibilities assigned to the departmental and municipal committees, closer collaboration between the central and local authorities is critical.

49. It is to be hoped that the recent designation, in March 1999, of the *Red de Solidaridad Social* as the national focal point agency for the internally displaced will ensure enhanced coordination. In March 1999, the post of Presidential Adviser for the Displaced, which had been in existence since 1997, was eliminated and its functions reassigned to the *Red*.[20] Established in 1994, the *Red* is mandated to address the needs of the most vulnerable groups of society, such as the poor, children, women, minorities, and now also the internally displaced. As with the previous arrangement of Presidential Adviser, the *Red* comes under the direct competence of the Office of the President. In addition, with offices throughout the country, the *Red* has the added advantage of having a nationwide operational capacity, and thus the possibility of working directly with partners at the departmental, regional and municipal levels. To do so effectively, however, will require strengthening the capacity of departmental, regional and municipal committees for the internally displaced which, as the *Red* acknowledged, has not yet been achieved. It will also require training in and understanding of protection issues. Unlike the poor, the internally displaced face issues of physical safety that must be addressed.

50. An important means of activating the institutional framework provided for in the law involves providing technical assistance to relevant mechanisms to enable them to fulfil their responsibilities to the internally displaced. In this connection, the recent decision of the Government to establish a Joint Technical Unit (JTU) within the *Red* to provide technical advice to strengthen the operational response to internal displacement is encouraging. Administered by a steering committee composed of representatives of government agencies responsible for financing and implementing all aspects of assistance to the internally displaced, relevant international organizations and national non-governmental organizations engaged in humanitarian assistance, the JTU will field a mobile group of national and international experts to provide technical support to local *Red* staff, the municipal committees, NGOs and others engaged in activities designed to assist displaced persons.

51. On the issue of financing, it has been calculated that in 1997-1998, the Government spent approximately $38,500 to help the internally displaced, equivalent to $0.32 per head.[21] But the *Red* explained that additional sources of funding now exist, depending upon the phase of displacement. In the area of prevention, the principal sources of funding are the Plan Colombia (a multi-billion-dollar national development plan),[22] the *Red* and international aid. For humanitarian assistance, there is the National Disaster Fund, the *Red* donation programme and

municipal, national and international funds earmarked for relief for the internally displaced. Supporting the solutions phase are the Plan Colombia, sectoral funds earmarked for internal displacement and international aid. For 1999, $20 million would be allocated for the internally displaced, as part of the allocation in the Plan Colombia for $100 million over five years. The *Red* is also actively soliciting international aid for its programmes for the internally displaced. The various funds, however, have not yet been made fully available.

52. Apart from the amount of funds, there is the issue of their distribution. Regional and local authorities indicated that severe delays in the disbursement of funds was a major impediment to the effective discharge of their responsibilities towards the internally displaced. There is also a need for the funds allocated to the regional and local authorities to be commensurate with their considerable responsibilities.

53. Another problem is the current overemphasis on humanitarian assistance with scant attention paid to the prevention of displacement and support for durable solutions. According to one governor, the actions taken by the authorities to date can be characterized as "fire-fighting" or simply responding to displacement only after it occurs, without sufficient attention to prevention. In his words, "This is not a policy for a problem of this magnitude." Moreover, the focus on emergency humanitarian assistance, as will be highlighted in the subsequent section, is very limited both in content and scope and fails to reach large numbers of the displaced in need. It is to be hoped that the identified gaps and weaknesses in the national policy on internal displacement will be effectively addressed in the third CONPES document which was being drafted at the time of the Representative's visit.

54. The participation of NGOs in the design and analysis of the national response to internal displacement needs to be strengthened and more systematic. In 1994, the Representative stressed that human rights and humanitarian NGOs should be perceived by the Government as partners in its efforts to care for the displaced (E/CN.4/1995/50/Add.1, para. 113). On the follow-up mission, NGOs noted that while there had been constructive collaboration with relevant government bodies in a few cases, coordination between them generally could be characterized as sporadic. Regional and local authorities acknowledged that "there is still a long way to go" before achieving the appropriate level of integration between government authorities and other actors involved. In particular, there is a need to open up a channel for dialogue between the Government and the NGO community. Doing so would be particularly beneficial now that national policy on internal displacement is being reformulated and institutional responsibilities recently have changed. This would enable the NGO community to share its accumulated wealth of best practices and constructive criticism of existing policies and programmes. The commitment made by government representatives at the workshop to convene in June a meeting with the NGOs and to establish a more permanent forum for dialogue in the form of a *mesa de trabajo mixto* (round table) was a most encouraging sign. However, symptomatic of the national response to displacement in general, it has fallen short when it comes to implementation: the *mesa de trabajo mixto* has yet to be convened and although a meeting between the Government and NGOs did indeed take place in June, the Representative has been informed that several key NGO participants were barred from attending. Clearly, a more inclusive approach and a more permanent forum are required. An NGO liaison officer would be valuable to facilitate and foster cooperation with the NGO community.

B. The international community

55. The Government of Colombia has demonstrated a readiness to accept or request international cooperation in responding to the assistance and protection needs of the internally displaced. This is particularly true in recent years, with the result that a number of international agencies have established or enhanced their presence in Colombia since the Representative's 1994 visit, a key recommendation of which was an increase of international presence. While space constraints do not allow for an overview of all international activities on behalf of the displaced, the report summarizes those of the principal international organizations most actively engaged with the issue of internal displacement.

56. The International Committee of the Red Cross (ICRC), which has been active in Colombia since 1969, maintains the largest and most comprehensive international presence in the country, with a staff of over 50 expatriates and 150 locals operating out of Bogotá and 14 subdelegations throughout the country. Through regular contacts with all parties to the conflict, ICRC delegates seek to promote respect for international humanitarian law with a view to creating the conditions in which civilians can remain in their homes in safety and dignity. In addition to its protection activities, ICRC provides emergency aid for persons once they become internally displaced, concentrating on those recently displaced. In 1998, it assisted 137,000 internally displaced persons, of whom some 100,000 were part of mass displacements, with the remainder being cases of individual flight. In light of the increasing numbers of displaced, ICRC has announced an expansion in its emergency assistance programme for 1999, to cover some 171,000 internally displaced persons.[23] The 90-day emergency kits it provides include food assistance as well as kitchen sets, blankets and mattresses. In some cases, such as at the Pavarando camp, the emergency assistance provided by ICRC has been prolonged beyond three months to over a year. Generally, however, ICRC seeks to support self-reliance on the part of those who have been displaced for long periods of time through the provision of items such as agricultural tools and fishing equipment.

57. Aside from ICRC, international presence has expanded since the Representative's 1994 visit to involve a number of new actors. In 1997, the Office of the High Commissioner for Human Rights established an office in Bogotá on the basis of a 29 November 1996 agreement with the Government. The mandate of the Office is twofold: to monitor the human rights situation and to provide technical cooperation with a view to addressing the underlying causes of human rights problems. Particular attention is paid to the problem of internal displacement, including through the designation in the Office of a focal point for the issue.

58. In another important development, UNHCR opened an office in Colombia in June 1998. In 1997, the Representative had written to the United Nations High Commissioner for Refugees to encourage her Office to establish a presence in the country, including in the field. Responding to the situation of internal displacement is a central component of UNHCR's activities in Colombia, with a special programme having been developed for this purpose. The objectives of the programme are twofold: to support an effective, integrated and coordinated State and civil society response in favour of the internally displaced, based on fundamental protection principles and with special emphasis on the national institutional framework; and to contribute to the initiatives of the peace process by reinforcing the response to humanitarian concerns linked to internal displacement. Activities undertaken towards these aims comprise: (i) strengthening the

overall legal and institutional national frameworks for responding to the phenomenon of internal displacement; (ii) promoting and supporting the elaboration of protection strategies by the Government of Colombia with a view to preventing displacement; (iii) improving the emergency response in order to fully meet the needs of the displaced; (iv) advocating safe solutions to the situation of the internally displaced, including through promoting the direct participation of the internally displaced in the process of finding safe solutions; (v) advocating and disseminating activities to raise public awareness of the internally displaced, secure the necessary resources to respond to their needs and integrate the issue of internal displacement into the agenda of the peace negotiations. This programme, intended to run from July 1999 to December 2000, anticipates as its end results: the establishment at the State level of a viable national institutional capacity, equipped with the requisite technical and managerial skills to assess, monitor and respond to the needs of the internally displaced in cooperation with civil society institutions, and a mitigation of the plight of the internally displaced, especially through enhanced physical security and access to essential rights and services. While UNHCR's small presence currently is limited to Bogotá, plans were under way to establish three field offices, to be staffed by United Nations Volunteers, in Barrancabermeja, Apartado and Puerto Asis (Putumayo), by the end of 1999.

59. In addition to carrying out its own operational plan, UNHCR plays an important role in facilitating interaction among agencies of the United Nations system on the issue of internal displacement, having been asked to do so, on an informal basis, by the United Nations Resident Coordinator in the country. In this function, UNHCR supports the work of four inter-agency committees (on information and prevention; revision of the normative framework; coordination of international cooperation; and support for local committees).

60. The activities of other agencies on behalf on the internally displaced can only briefly be highlighted. UNDP is engaged in a number of projects supporting capacity-building of national institutions working on behalf of internally displaced persons, including supporting the development of an early-warning capacity within the *Defensoria del Pueblo*. Also of note is its Development and Peace Project in the Magdalena Medio region (the regional office of which the Representative visited in Barrancabermeja) which aims to strengthen civil society as well as to support sustainable development in this region so seriously affected by internal displacement. UNICEF, in addition to supporting the CODHES information system, undertakes projects providing psychosocial support to displaced children and education kits and basic health assistance to some 20,000 internally displaced families. The World Health Organization (WHO), working with the Pan-American Health Organization (PAHO), has a project which aims to strengthen the capacity of the Ministry of Health to ensure attention to the health needs of the internally displaced. The World Food Programme (WFP), which has been undertaking operations in Colombia since 1962, supports food-for-work projects for the displaced, has a specific programme assisting displaced indigenous communities, and maintains revolving credit funds designed to promote socio-economic activities by facilitating access to credit. At the time of the mission, WFP was planning to expand its programme for the internally displaced by means of a two-year 9 million dollar project (set to begin in February 2000) to provide emergency food aid, food for work or supplementary feeding to some 227,000 internally displaced persons, focusing on vulnerable groups, including women heads of household, pre-school and primary school-aged children and indigenous and Afro-Colombian communities. Within the framework of a joint project with WFP, the Food and Agriculture Organization of the

United Nations (FAO) provides technical support in food production with a view to increasing food security among the internally displaced. The reproductive health services of the United Nations Population Fund (UNFPA) include among their beneficiaries the internally displaced. Mention also must be made of the work of IOM which includes providing technical assistance in the design and implementation of an information system on internal displacement, a project to enable internally displaced persons to receive personal identity documents, and for capacity-building among social workers for psychosocial assistance for the internally displaced.

61. Moreover, over a dozen international non-governmental organizations are now involved with the internally displaced. Several international agencies working with the internally displaced are funded by the European Community Humanitarian Office (ECHO). A number of these and other international humanitarian and development agencies working with the internally displaced are members of an inter-agency group named "DIAL" (for Diálogo Inter-Agencial), through which they coordinate their operational activities and their advocacy efforts regarding internal displacement.

62. The Representative was informed that although coordination among these various international actors engaged in protecting and assisting the internally displaced has considerably improved, it is still insufficient. For this reason, the Representative was pleased that a representative of the Office for the Coordination of Humanitarian Affairs (OCHA) joined the mission delegation for the purpose of examining this need and making recommendations to address it. The Inter-Agency Standing Committee Working Group (IASC-WG), following presentations by the Representative and OCHA of their findings of the mission,[24] recognized the need to strengthen coordination on internally displaced persons. In this connection, it endorsed OCHA's proposal to support with human resources UNHCR in its function of coordinating the international response to internal displacement.

63. It bears emphasizing that international involvement has clearly increased over the past five years. But international presence is still limited, with the exception of ICRC. Moreover, most international presence is in the capital and not sufficiently spread out around the country and the international programmes undertaken target only a portion of the displaced population. One of the reasons for the limited presence is that the Government's readiness to invite international involvement could risk abrogation by the State of its responsibilities towards its displaced population. Indeed, a number of authorities, at different levels, when asked about what needed to be done often deflected the onus for action onto the international community. Clearly a balance is needed between the role of the international community, which is vital, and the need to ensure that Colombia - a country with a high level of human and resource capacity - does not transfer to the international community the responsibilities that it has the duty and ability to discharge.

III. GAPS IN THE RESPONSE

64. The Guiding Principles provide the normative framework for assessing the needs of internally displaced persons and evaluating the required response. Accordingly, and in correlation to the Principles themselves, this section is organized to correspond with the three

phases of displacement - protection against arbitrary displacement, protection and assistance during displacement, and during return or resettlement and reintegration. Regrettably, as the *Defensor del Pueblo* noted, many of the Principles are not being observed.

A. Protection against arbitrary displacement

65. The continuing increase in the numbers of displaced persons provides a clear sign of the insufficient efforts to provide protection against arbitrary displacement. The Government's accession, as the Representative recommended in 1994, to Additional Protocol II to the Geneva Conventions of 12 August 1949 (which contains in article 17 an express prohibition of displacement) is of course a positive development. So too are the human rights training programmes undertaken by the public forces as well as the commitment made to the Representative by the Commander of the Fifth Brigade to include in these programmes training in the Guiding Principles. Still, as noted above, violations of international human rights and humanitarian law continue to be systematic and widespread, and indeed appear to have only intensified in scope and severity since the Representative's first visit.

66. There is therefore a need for the authorities to respect and promote respect for human rights and humanitarian law, which in turn will prevent and avoid the conditions that give rise to displacement. In particular, there is a need for all of the armed actors to recognize civilians as non-combatants and protected persons under international humanitarian law. "That", as one internally displaced man stressed, "is the most important message; it is that easy, that simple." This call applies both to individual civilians as well as community groupings that have expressly indicated their non-combatant character, such as the "peace communities" that have been formed in a number of areas with the support of the Church and several indigenous communities who have openly declared themselves neutral. Yet, in the month just prior to the mission, a number of "peace communities" in the region of Urabá were attacked, resulting in the killing and kidnapping of several members of these communities and significant displacement. On 24 April 1999, Lucindo Domico Cabrera, an indigenous leader of the Emberá-katio tribe of the Alto Sinú Reservation, who had worked with other indigenous authorities to prevent the displacement of part of this community in February 1999, was shot eight times and killed.

67. Given that many of the killings and massacres committed by armed actors are pre-announced (this was the case for 50 per cent of them in 1998, according to the *Defensoria del Pueblo*), there is certainly scope for preventive action to protect people from being arbitrarily displaced or worse. Article 14 of law 387 prescribes a number of preventive measures, including a role for the armed forces, to address the factors inducing displacement. In practice, however, it is clear that the area of prevention is where the Government's response has been weakest. Though warnings of human rights violations or mass displacements frequently are communicated to the local and national authorities by representatives of international agencies, NGOs, and the *Defensoria del Pueblo* and *Personeria*, they are not acted upon.

68. To be sure, the Government may, as a number of officials noted, lack the capacity to be present and provide adequate protection in all areas. But this fails to explain the absence of concerted protective efforts altogether. At a minimum, there is a need for a response on the part of the Government to demonstrate its willingness to attempt to mitigate the threats of massacre and displacement of which it is made aware, in particular by enhancing the State presence in

these high-risk areas. This does not necessarily mean military and police presence alone, but the presence of State institutions. For instance, the presence of the *Defensoria del Pueblo* and *Personerias* needs to be strengthened, including by ensuring guarantees of the physical security of the individuals occupying these offices, who themselves frequently come under threat. Moreover, there is a need for an enhanced role on the part of local authorities in early warning and prevention.

69. As a supplementary measure, the international community, for its part, needs to enhance its presence in the field. The Representative was told of cases where the presence of United Nations staff or international NGOs had contributed to deterring threatened massacres, at least temporarily. For this type of protection to have more lasting effect, as the experience of Peace Brigades International and ICRC attests, the establishment of a permanent international presence in the field is required. Having reassessed the situation on the ground, the Representative is all the more convinced of the need for OHCHR and UNHCR to establish, as he has recommended in recent years, field offices in Colombia outside of the capital (see, for example, E/CN.4/1998/53, para. 60; E/CN.4/1999/79, para. 84). UNHCR's plans to establish regional offices are thus most welcome. The cooperation of the Government is urged in order to enable OHCHR to do likewise.

70. Of course, since much of the displacement is occurring in the context of armed conflict, an end to the conflict is ultimately the best prevention against further displacement. The peace process initiated by President Pastrana is thus a bold and welcome move that merits international support. Concurrently, attention must also be paid to the displacement being caused by large-scale development projects, as in the Alto Sinú region, to ensure that they are justified by compelling and overriding national interests and that the guarantees stipulated in the Guiding Principles when such displacement is allowed are scrupulously respected.

B. Protection and assistance during displacement

71. Of particular concern are physical security, the right to seek asylum, the physical security of those working on behalf of the displaced, access to basic humanitarian assistance, education and opportunities for income-generation.

1. Physical security of the displaced

72. There is ample evidence, as the *Defensoria del Pueblo*, local NGOs and international agencies alike indicated in reference to specific cases, that guarantees of the physical security of internally displaced persons are not being observed. Their right to life and physical integrity are violated daily.

73. Moreover, flight often offers no respite from protection problems, with the displaced persons frequently finding threats to their physical security also in the communities where they seek refuge. As earlier noted, the very fact of having fled tends to heighten suspicions of their sympathies towards one party to the conflict or another and thereby to intensify their risk of being targeted. "We feel very unprotected", internally displaced persons told the Representative

The authorities, they said, "do not take seriously" the threats to physical security brought to their attention. As a result, many of the displaced do not even dare to approach the authorities, for fear of exposing themselves to further suspicion and threats.

74. In recent years, however, increasing numbers of displaced persons have begun to seek safety in solidarity by forming associations among themselves as a means of collectively advocating for their rights with the authorities. The leaders of these groups face serious risks, however, since they frequently are targeted for harassment and attack, including torture and killings. For example, the President of the Displaced Persons' Association in Rioblanco (Department of Tolima) was assassinated in September 1999. In the past two years, 127 leaders of displaced indigenous communities have been assassinated.

2. Right to seek asylum

75. In light of the difficulties that many internally displaced persons face in finding safety in Colombia, it is incumbent upon outside countries to respect the right of those at risk to flee. Both UNHCR and non-governmental groups like the U.S. Committee for Refugees have documented the refoulement of fleeing Colombians, which is not only adding to the numbers of those internally displaced, but exposing those who seek asylum to serious risks to their safety and well-being.[25]

3. Physical security of those working on behalf of the displaced

76. Individuals attempting to provide protection and assistance to the displaced also face severe risks to their physical security, such that the call by the Representative to provide guarantees and safe working conditions for organizations of the internally displaced and for persons working on their behalf (E/CN.4/1995/50/Add.1, para. 113) continues to be valid. Throughout the follow-up mission, the Representative was informed of numerous cases of serious human rights violations, including killings, suffered by individuals working with the displaced. For example, the National Mutual Aid Association (ANDAS), with which the Representative toured settlements of internally displaced persons outside of Cartagena, had three of its members and leaders assassinated in 1996 and 1997. In early 1999, Carlos Castaño, the proclaimed leader of the paramilitary AUC, declared human rights defenders and NGOs in general to be "military objectives". This threat has created a climate of fear for human rights defenders and NGO staff as well as an increased number of disappearances and killings, the displacement of many human rights defenders and the closing of a number of NGO offices.

77. It must be noted that public officials are not immune from such threats. Local representatives of the *Defensoría del Pueblo* have themselves been targeted. Moreover, it was during the mission that Senator Piedad Córdoba, President of the Senate Human Rights Commission and an outspoken advocate of the rights of the displaced, was kidnapped by paramilitary groups; fortunately, she has since been released. In general, however, the situation of the displaced and those undertaking action on their behalf has deteriorated further still since the mission.

78. The staff of international humanitarian organizations also are at increasing risk, leading to the recent withdrawal or scaling back of the activities of a number of organizations in certain areas. Guarantees for their security are a critical precondition for an enhanced international presence.

4. Basic humanitarian needs

79. According to law 387, the Government is to provide three months of emergency humanitarian assistance to the displaced, extendable, exceptionally, for a further three months. Notwithstanding this provision and the emphasis in the national system for response to internal displacement, in practice large numbers of internally displaced persons do not receive assistance. In 1997, only 54 per cent of internally displaced persons received some form of assistance and in 40 per cent of these cases the assistance received consisted only of food aid while only an estimated 20 per cent received housing and health care.[26] Of the internally displaced persons whom the Representative met, the extent to which they received assistance varied, from over a year, to six months, to three months or less, to not at all.

80. While resource constraints, including the alleged misuse of funds, are considered to account for part of the insufficient coverage of humanitarian needs, the principal problem lies in the "certification" process, according to which internally displaced persons must first be certified as such before they are entitled to access the assistance and other benefits provided for them under the law.

81. In practice, few internally displaced persons have received certification. There are several reasons for this. First, given the suspicion with which internally displaced persons tend to be viewed, many are afraid to even request certification, for fear of being targeted on this basis. Those that do apply for certification may find that the veracity of their claim and of the risks that compelled them to flee are called into question. They may be called upon to provide the names of witnesses to substantiate their claim which, understandably, they may be unwilling to do for fear of endangering the lives of others. Officials also frequently insist upon seeing personal identity documentation, such as a birth certificate, before considering an application for certification. However, as in other countries, the displaced often have lost their personal documentation in the course of flight. In Colombia, moreover, many of the displaced never had such documentation at all, especially in rural areas where reportedly there is little need for it. According to official figures, only 17.64 per cent of internally displaced women possess some sort of personal documentation, compared with 60 per cent of men.[27] To obtain the personal identity documentation necessary to be registered would require internally displaced persons to return to their area of origin - precisely the area from which they fled out of fear for their lives. Instead, the authorities should issue to the internally displaced all documents necessary for the enjoyment and exercise of their legal rights without imposing unreasonable conditions, such as requiring the return to one's area of habitual residence in order to obtain the required documents. That return to one's area of origin in order to obtain the necessary documentation is not required by the certification process as set out in law but rather often is a requirement introduced by local officials provides further indication of the overarching need to clarify the law and related procedures for all those with a role to play in its implementation.

82. There is also a need to streamline and expedite the certification process. Long delays mean that even those whose applications eventually are approved frequently wait several months before receiving any assistance. The mobile registration programme initiated by UNHCR and ICRC, in collaboration with the Ministry of Interior, the Registry Office and the *Red*, is an important step towards addressing this problem.

83. Also of concern is the time limit of three to six months on the eligibility for assistance which is problematic since the majority of persons are displaced for longer periods, often years. Indeed, a number of international NGOs with whom the Representative met suggested that those displaced for longer periods are in worse condition than the newly displaced who are at least entitled to assistance. Strategies need to be developed to address not only the immediate but also the longer-term assistance needs of the displaced. The programmes of ICRC, WFP and FAO and a number of NGOs to increase the longer-term food security of the displaced are thus of critical importance. However, there is a need for greater action in this regard on the part of the authorities as well.

84. Another gap in the national response to the assistance needs is that efforts have focused overwhelmingly on those displaced as part of mass movements without sufficient attention being paid to the needs of the large numbers of persons who flee on an individual basis. National strategies to address individual cases of displacement need to be developed. Regarding the international response, the assistance programme of ICRC, it was noted above, does cover a number of individual cases. But generally, international agencies pointed out to the Representative the need for greater international donor support for projects addressing the needs of individual cases of displacement.

85. A number of persons - authorities, NGOs and displaced persons alike - also stressed the need for greater involvement of the internally displaced in the design and implementation of the programmes to address their plight. Special efforts were also recommended to ensure the full participation of women in the planning and distribution of basic humanitarian supplies.

86. Internally displaced women noted health needs as among their main concerns. Without certification, they face difficulties in accessing public health-care services and even with it they report facing discrimination on account of their being displaced. Only 20 per cent of displaced children have access to medical assistance.[28] Yet all sick internally displaced persons as well as those with disabilities should receive to the fullest extent practicable and with the least possible delay the medical care and attention they require, without distinction on any grounds, other than medical ones. It is prohibited under international law to disadvantage displaced persons in accessing health care simply because they are displaced.

87. Those displaced also noted that even when they have access to medical attention, they lack the money to buy medication. The health-care centre built by the local authorities at the Nelson Mandela settlement and the ICRC's programme with the Colombian Red Cross of sending mobile health brigades to regions of Urabá which, because of the conflict, have become off-limits to other health-care workers provide examples of the types of efforts required to address health needs of the displaced.

88. Shelter conditions seen by the Representative on his site visits count among the worst he has ever seen. This was particularly true of the Ciénaga de la Virgen (literally, "Swamp of the Virgin") settlement which is located in a stagnant swamp. Using refuse as landfill, internally displaced persons mark a plot in the swamp and, using whatever material they manage to find, such as cardboard boxes, construct rudimentary shacks; some of the internally displaced were in the midst of this construction process when the Representative visited. The shacks are reached by means of thin individual wooden planks crossing the muddy and contaminated water which, when it rains, floods the floor. A number of the shacks lacked roofs. Also lacking was anti-insect netting which, given the location of this settlement in a mosquito-infested swamp, was critical.

89. Though conditions in the nearby *barrio* of Nelson Mandela were comparatively much better - due in large part to the activities of the Church and local as well as international NGOs - the population of over 25,000 still lived without running water, a sewage system and electricity. The close proximity of the settlement to a garbage landfill site raised serious concerns of contamination and consequent health problems.

90. That these conditions of destitution exist on the outskirts of the impeccably maintained wealthy resort town of Cartagena make their existence particularly difficult to accept. In a subsequent meeting with the departmental and municipal authorities, the Representative pleaded with them to visit such settlements to see for themselves the dire conditions of the displaced and then to engage in discussions with international partners to ensure that these are addressed. Residents had told the Representative that the local authorities visit the settlements only at election time.

5. Education

91. Particularly glaring is the fact, reported by the *Defensoría del Pueblo* and confirmed by local and international NGOs, that only an estimated 15 per cent of internally displaced children receive some form of education. This low attendance rate is due to a number of factors. Internally displaced families find that they are not able to afford the cost of books and uniforms; though the amount may be small - the figure of $5 or $10 was mentioned - this is money that they simply do not have. Another explanation is that the desperate economic situation of the displaced compels a large number of displaced children to enter the informal labour market, including prostitution. A further impediment is the lack of teachers, who, it was noted above, are among the targets of "political cleansing". The discrimination that internally displaced persons face also deters children from attending school: one woman recounted that her son was told by his teacher "no wonder you are so stupid - you are a displaced".

92. Those displaced children who do attend school tend to demonstrate poor academic performance on account of experiencing high rates of cognitive disorders and memory loss, malnutrition and psycho-social problems. The authorities should, in accordance with the Guiding Principles, ensure that displaced children receive education which is free and compulsory at the primary level and that education facilities be made available to internally displaced persons, in particular adolescents and women, as soon as conditions permit.

6. Employment and income-generation

93. The internally displaced stressed that employment and income-generation is a priority concern. Coming mostly from rural areas, the displaced arrive in the cities to find that the pressure for money just to buy food and pay rent or buy materials to build shelter is immediate and enormous. Support for "social and economic consolidation and stabilization" is one of the main components of the National Plan for the Internally Displaced, reflected in law 387.

94. However, the economic downturn that the country has been experiencing since 1997, owing to a decrease in the overall economic growth rate, makes meaningful economic activity hard to find. Unemployment rates have reached 20 per cent (up to 30 per cent in certain cities according to some). For the displaced, the search for work is further complicated by the stigma and suspicion associated with their situation and their frequent lack of education and urban job skills. The type of income-generating activities in which internally displaced persons engage tend to be low-paying, temporary jobs with few or little social benefits such as construction work for men and domestic work for women. Sexual abuse suffered by housemaids is considered to be widespread.[29] Street vending of items such as food, trinkets or housewares is common among the displaced but brings only meagre earnings. Large numbers of displaced women and young girls reportedly find that they have no alternative but to resort to prostitution.

95. As alternative means of employment and income generation, internally displaced persons suggested that they be hired to work on public works projects and that the involvement of the private sector in creating income-generating opportunities for them be encouraged. WFP's microcredit programme for displaced indigenous communities was cited as an important example of a targeted intervention responding to the particular needs of these communities. Internally displaced women stressed the need for skills training, microenterprise projects and microcredit schemes.

96. To support income-generating activities for women, child-care facilities are required. One example of a State-run programme in this regard is the "*Madres Comunitares*" in the Nelson Mandela *barrio* which involves paying a number of internally displaced women to provide day care for children whose mothers work. Women also suggested that subsidized public transportation for the displaced would be a practical way in which the Government could facilitate their engagement in income-generating activities as well as ease the financial burden of urban living.

7. Information

97. Internally displaced persons generally do not have clear information about their entitlements under national policy and the procedures for accessing these. The *Defensor del Pueblo,* in his helpful analysis of the situation of internal displacement, emphasized the right of the internally displaced to information - information about what is to be provided by the State and how to go about obtaining it. Some local authorities admitted that the internally displaced do not have sufficient information, raising once again the central theme of needing to clarify and provide guidance to all those involved, authorities and internally displaced persons alike, on the content of the law and the modalities for its implementation. The national workshop of internally displaced women made a suggestion to correct this lacuna: it called for the production

of a booklet to provide internally displaced persons with information on the benefits to which they may be entitled under the law, the institutional procedures involved, and the various government and NGO programmes for which they may be eligible. This is a concrete and low-cost measure that could make an important difference in the lives of the internally displaced.

C. Return or resettlement and reintegration

98. Regarding durable solutions for the internally displaced, it should be noted that the focus of government efforts to date has been on return, without adequate attention to the alternative of resettlement. Indeed, law 387 limits its discussion of durable solutions to return. On the question of voluntariness, it must be noted that the internally displaced generally are not being directly forced to return. However, they often are subject to indirect pressure from the authorities in their host community or feel compelled to return out of sheer desperation stemming from the insufficient protection and assistance they receive, which leaves them feeling that they have no choice but to return. Furthermore, in a number of cases internally displaced persons have been encouraged to return on the basis of assurances made by the authorities that their physical safety would be protected, only to discover, with tragic results, that this was not the case.

99. For this reason, it is of the utmost importance that communities contemplating return be provided with clear information on the conditions of security and assistance in areas of return or resettlement. It is only when they have such information that the voluntariness of their decision to return or resettle can be assured. The Representative was told of a number of cases where displaced communities had attempted to return to their places of origin, even though minimum conditions of security existed in these areas and the causes which had given rise to their displacement clearly had not been eliminated. One internally displaced person with whom the Representative met noted that only the day before he had attempted to return to his home in the Montes de María region the car in which he was travelling was stopped by armed men and a number of the passengers were killed. Absent guarantees for their physical security, it is not uncommon for returning displaced persons to be displaced anew, a second, and sometimes a third time.

100. Leaders of the returning community are often singled out for attack in a foreboding message intended for the broader community. Two recent high-profile cases illustrate this phenomenon. In 1998, 4,000 internally displaced persons in the Pavarando camp returned to eight communities in Riosucio (Chocó), where they formed a "peace community", supported by the Catholic Church, expressly distancing itself from all armed actors. However, on 5 April 1999 a paramilitary group entered the settlements, killed 12 of the leaders and kidnapped 7 (who subsequently were released). In another case concerning the aforementioned mass displacement of some 8,000 persons from the south of Bolívar to Barrancabermeja, the return of these persons in November 1998 was marred by the killing and mutilation by paramilitary forces of several leaders of the group. In both cases, the return processes had occurred in accordance with an agreement between the displaced and the Government which had committed itself in writing to guarantee the returnees' safety.

101. It should go without saying, but in light of the above cannot, that if such commitments are to be made by the Government they clearly need to be honoured, by taking all necessary

measures to ensure the safety of the returnees. An enhanced presence in areas of return of State institutions such as the *Defensoría del Pueblo*, the Human Rights Unit of the Ministry of the Interior and the judiciary, as well as the police and armed forces, would be among such measures. Increased international presence in areas of return, to provide objective assessments of the conditions of safety in these areas and to monitor the safety of returning internally displaced persons also would be important, provided that this is a supplement to action on the part of the State.

102. The need for the authorities to honour commitments relating to return also relates to the assistance to be provided to ensure conditions of dignity and sustainability. Though the law provides for relief and infrastructure assistance, in a number of cases communities have found that these were not provided or were subject to long delays.

103. Another important element for sustainable solutions that needs to be more effectively addressed is that of restitution or compensation for land and property lost as a result of displacement. It should be emphasized that, according to the Guiding Principles, the authorities have the duty and responsibility to assist returned and/or resettled internally displaced persons to recover, to the extent possible, their property or possessions which they left behind or were dispossessed of upon their displacement. When recovery of such property and possessions is not possible, these persons should be assisted in obtaining appropriate compensation or another form of just reparation.

104. In Colombia, where control over the land is so central to the conflict, an equitable process of land reform and distribution is key to a lasting solution. The fact that the majority of the internally displaced lack legal title to the land they left behind, however, makes it extremely difficult for them to recover land or be compensated for its loss. Article 19 of law 387 specifies that the *Instituto Colombiano para la Reforma Agraria* (INCORA) should adopt special measures for land entitlement and transfer in zones of expulsion and zones of reception as well as introduce special lines of preferential credit for the internally displaced. The process of reinstating or reallocating land for the displaced, however, is very slow, with delays of nine months to two years, during which period the displaced often are without humanitarian assistance or other means of support. Moreover, the legislation on agrarian reform, in particular Act 160/94, does not sufficiently take into account the particular situation of the internally displaced, who are expected, just as any other peasant requiring land, to pay 30 per cent of the total cost of the new plot of land they are allocated; this is money that most internally displaced, bereft of their possessions and normal means of livelihood, simply do not have.

IV. CONCLUSIONS AND RECOMMENDATIONS

105. In light of the above, it is clear that although the Government has made progress in acknowledging its responsibility for the internally displaced and creating legal and institutional frameworks to address the problem, many of the difficulties identified in 1994 persist today. The main problem lies not so much in the design of laws or the selection of strategies - efforts that should be commended - but in their implementation. In the words of one local observer, law 387 has become a "phantom law" since for the most part it exists only on paper.

106. Problems of implementation stem from numerous factors. Overall, there seems to be insufficient will or determination on the part of the Government to put its laws into practice. As a result, institutional responsibilities remain unclear. Resource allocations suffer from long delays and insufficient decentralization. Bureaucratic obstacles, especially the "certification" process, are allowed to impede the access of the displaced to assistance. Sharply differing perspectives between the central Government and the local authorities interfere with the development of predictable and effective responses to the needs of the displaced. Coordination within the Government and with the NGO community remains problematic. Suspicion of the displaced remains deep seated, leading to neglect and discrimination against them. The tendency to allocate to the international community responsibility for addressing their needs is therefore of serious concern. Moreover, the efforts of national and international actors to help them are not adequately integrated. Even the pursuit of peace, which certainly should help the displaced, tends to relegate to a lower priority the urgent need to prevent further arbitrary displacement, to protect and assist the large numbers of internally displaced and to support durable solutions to their plight. Meanwhile, the number of internally displaced persons in Colombia continues to grow.

107. Concerned by the deterioration of the situation of internal displacement, there is an urgent need for a comprehensive strategy that would clarify the central role of the State and integrate the supplementary work of other actors, non-governmental and intergovernmental alike. The following are the suggested components for such a strategy.

108. Clear assessment of the national and international responses to the problem. Recalling the request of the Vice-Minister for Foreign Affairs for international assistance to assess the magnitude of the problem, it would indeed be helpful to have a better sense of the numbers of internally displaced, especially as a means of bringing home to both the Government and the international community the magnitude and seriousness of the problem. At the same time, it must be recognized that considerable work already has been done in this regard, especially by the Church and local NGOs, such that in the view of many, including some government authorities, there already exists sufficient diagnosis of the problem. Indeed, the situation of internal displacement in Colombia appears to be one of the best documented in the world. Emphasis rather should be on the response. In this regard, the Representative recommends an assessment of the response to the needs of the internally displaced, examining who is doing what, where and with what impact. Such an analysis would serve to identify the gaps in the coverage of geographic areas and needs as well as help to avoid duplication.

109. Clarification and implementation of national policy. Steps are needed to put policy into practice. In particular, this means: completing the *reglamentacion* of law 387; finalizing the reformulation of the third CONPES document through a broad-based consultative process including the participation of NGOs; and communicating to relevant mechanisms their specific responsibilities. In addition, national policy on internal displacement should incorporate the Guiding Principles on Internal Displacement.

110. Establishment of the institutional mechanisms provided for in law 387. This includes: convening the National Council for Comprehensive Assistance to the Displaced; supporting the establishment and capacity-building of local, regional and departmental committees on internal displacement; ensuring the timely transfer of funds to these committees in an amount

commensurate with their responsibilities; operationalizing the National Information Network; and establishing the Observatoria del Desplazamiento Interno por la Violencia. The establishment of the Observatorio, in particular, is essential for enabling national and international NGOs to participate in the process and determine where they can most effectively contribute to the national response.

111. Strengthening coordination of responses at the national level. As was the case in 1994, the Government's response is hampered by the problem of excessive centralization, with the result that national policy does not always correspond to the needs of particular regions. Closer coordination is required between the national and local authorities who, in turn, need to promote coordination at this level through the establishment and effective functioning of regional, departmental and municipal committees for the displaced as provided for in the law. The work of the JTU should enhance their capacity for doing so.

112. Opening up spaces for cooperation and dialogue between the Government and NGO community. Separate mention must be made of the need to foster a spirit of partnership between the Government and the NGO community. Aside from the establishment of the Observatorio, recommended measures to this end include convening the *mesa de trabajo mixto*, allowing all relevant NGOs to participate in meetings held between the Government and NGOs, and appointing an NGO liaison officer within the Government. Measures to guarantee the safety of NGOs and others advocating on behalf of the displaced are absolutely essential.

113. Strengthened coordination at the international level. Within the United Nations system, there is recognition that coordination is not as strong as it could be and that closer interaction between United Nations agencies and NGOs would be beneficial. As a follow-up to the mission, recommendations for strengthening coordination among the international agencies have been put forth by OCHA, with the support of the Representative, to the IASC membership which has agreed that the current "de facto" coordination arrangements on internally displaced persons which see UNHCR acting in a facilitation role should be maintained, that OCHA should support UNHCR in this role, that the humanitarian component of the country team should be strengthened and that all efforts should be made to avoid duplication of efforts.

114. Establishment of greater international presence, especially in the field. The need to establish greater international presence in the field remains of utmost importance. The presence of international personnel, such as ICRC and Peace Brigades International, has served to provide protection to civilians at risk in outlying areas. The decision of UNHCR to expand its presence beyond the capital through the establishment of three field offices is thus most welcome. It would be valuable if OHCHR could do likewise. Guarantees for the security of international staff are clearly a critical precondition for an enhanced international presence in the field.

115. Launching of a national public awareness campaign on the plight of the internally displaced and their rights. As was the case in 1994, internally displaced persons continue to be viewed in Colombian society as a "problem" rather than as fellow citizens who have been victimized by the conflict and are in need of protection and assistance. Throughout the mission, a number of people commented on the generous outpouring of sympathy and support by the Colombian Government and society as a whole for the victims of the devastating earthquake that occurred in the country in January 1999, contrasting this with the suspicion and stigmatization

with which those displaced by conflict are viewed. This perception then leads to discrimination which severely impedes enjoyment by the displaced of their most basic rights - to protection, assistance, health care, education and employment. There is thus a need to sensitize Colombian society to the plight of the internally displaced in order to foster a sense of solidarity with them. An important first step in this regard is the recent publication by the *Defensoría del Pueblo*, with the support of UNHCR, of the Guiding Principles on Internal Displacement, which clearly prohibit discrimination against the displaced; this booklet should be widely disseminated.

116. Integration of the issue of displacement into the peace process. It should go without saying that an end to the conflict is essential to resolving the problem of internal displacement in Colombia and, thus, that the peace process is a welcome move that merits support. The Representative, for his part, has expressed support for this initiative and used the occasion of his meetings with the President, the Vice-President, the High Commissioner for Peace and other senior officials involved in the peace process to urge the integration of the issue of displacement - its prevention, protection and assistance to the displaced, and their safe return or resettlement and reintegration - into the peace process. The President and senior officials involved in the peace process provided positive indications that they may be prepared to do so.

117. Concerted efforts to provide protection against arbitrary displacement. Respect for international human rights law and humanitarian law, in particular, respect by all armed actors of the non-combatant nature of the civilian population, especially of peace communities, and the protections that this status affords is urgently required. It would be useful if the various early-warning efforts that exist or are envisaged were consolidated into a single comprehensive system. Timely and effective responses by the authorities to early-warning information of human rights violations and displacement is then required; the fact that massacres and acts of displacement frequently are pre-announced provides considerable scope for preventive action and increases expectations for effective responses in this regard. Preventive measures for guaranteeing the physical security of populations at risk include a strengthening of the presence of national military, police and civil institutions in high-risk areas - this provided that the activities of these national institutions are effectively de-linked from those of the paramilitaries and other armed groups. Special protection measures to protect against the displacement of indigenous communities and other persons having a special attachment to the land also are required.

118. Protection of the physical security of the displaced and those working on their behalf. Effective responses must be taken to address threats against the physical security of the displaced, their leaders and others advocating on their behalf. Especially when these are brought to the attention of the authorities, the onus is on them to take appropriate measures.

119. Respect of the right to seek asylum in other countries. Until such time that their protection can be assured within the country, those seeking asylum in other countries should be allowed entry and should not be forcibly returned.

120. Ensuring access to humanitarian assistance. As highlighted above, large numbers of displaced persons do not receive humanitarian assistance addressing their needs for food, shelter, medical care and sanitation. A key obstacle to their having access to humanitarian needs is the "certification" process which is lengthy, cumbersome and inadequately understood by the

officials responsible for its implementation, to the severe detriment of the internally displaced. Streamlining this system and doing away with the unreasonable requirements frequently associated with it and which are contrary to international law is something the Government *can do* and which would have a significant impact in easing the plight of the internally displaced, particularly in the cases of individual displacement which the Government acknowledges need to be better addressed. The Representative considers improvements to the "certification" process to be a matter of utmost priority for the Government.

121. Production of a handbook for the displaced. Another essential step for facilitating access by the displaced not only to humanitarian assistance but all benefits provided for them under the law is to ensure that they have information on the procedures for accessing these benefits. Too many internally displaced, especially poor rural women, wander around in the cities without any awareness of how to obtain needed food, medicine and shelter. It is to be hoped that an international agency or international or local NGO will produce such a handbook for the displaced without delay and that this booklet will be disseminated widely.

122. Promotion of self-reliance. As the displacement in Colombia is often protracted, frequently for years on end, simply providing handouts to the displaced is clearly not a sustainable strategy nor is it what the displaced themselves want. While addressing the immediate emergency needs of the recently displaced, there is also a need to develop strategies specific to those who, after at best six months, are left to fend for themselves. In particular, programmes supporting the self-reliance of the displaced need to be expanded. Support enabling the displaced to engage in meaningful economic activity also is needed. Education and training are required as well as help in finding jobs, together with measures such as subsidizing child care or public transportation so as to enable the displaced to help themselves.

123. Specific attention to the particular needs of internally displaced women and children who make up the overwhelming majority of the displaced. The report has highlighted a number of concerns, in the areas of documentation, health, education, training and income-generation which impact severely on women and children. Greater involvement on the part of internally displaced women in the design and implementation of policies and programmes, in particular in local committees, is strongly encouraged. So too is the development of a nationwide organization of displaced women to advocate for their rights and those of their families. Protection of children from forced recruitment is an issue requiring greater attention. The recommendations made by the Special Representative of the Secretary-General on Children and Armed Conflict following his recent mission to Colombia merit attention and support.[30] In particular, the Special Representative called upon FARC to end the recruitment of children under the age of 15. He also has urged the Government to address the urgent needs of displaced children and their families, especially concerning health, education, sanitary conditions, shelter, water, registration, economic opportunities, physical protection and safe return or resettlement.

124. Ensuring return or resettlement in conditions of safety and dignity. Return or resettlement must not be in any way encouraged without guarantees for physical safety. Commitments made by the Government in this regard must be matched by concerted efforts to ensure their effective implementation. Enhanced international presence in areas of potential and actual return or resettlement would allow for objective assessments of the extent to which the requisite conditions of safety exist. Alternatives to return, specifically resettlement, need to be

more actively pursued by the Government Regardless, reintegration assistance is essential, as are measures for the restitution or compensation of property lost as a result of displacement and for the fair redistribution of land

125 Regular follow-up on the status of these recommendations International and local NGOs in particular stressed the importance of periodic updates on the status of implementation of recommendations The Representative would indeed encourage such efforts and welcome a consolidated assessment, from all those engaged on the ground, of the status of implementation and continued relevance of the recommendations put forth in this report

126 This report has focused primarily on recommendations for action by the Government of Colombia partly because the dimension of international response has been covered in the report by OCHA[31] But perhaps more importantly, the report focuses on the national response because internal displacement is first and foremost a national responsibility In this connection, it should be borne in mind that displacement and indeed the conflict generating it are symptoms of deeply rooted national problems As is the case with most if not all of the countries torn apart by conflict and internal displacement, Colombia is an acutely divided country The rural poor, the indigenous populations and the Afro-Colombians are the primary victims of a national identity crisis that both contributes to the conflict and impacts on the national response to its consequences While the Government is called upon to respond to the crisis of internal displacement, it must aim at addressing the root causes to promote justice, security and equality for all its citizens But as the crisis has been ongoing for decades, it is to be expected that no comprehensive solution is likely to be found in the near future and that the dispossessed of Colombia will continue to look to the international community for protection and assistance The concern about the Government assigning its responsibility to the international community is valid, but it cannot be a justification for leaving unprotected and unassisted a people who are largely dispossessed by their own national authorities The international community must strive to fill that gap

Notes

[1] Conferencia Episcopal de Colombia, Derechos Humanos Desplazados por la Violencia, Santafé de Bogotá, Kimpres, 1995

[2] Presidency of the Republic, *Segundo Informe de la Gestión Estatal en Atención Integral a Población Desplazada por la Violenca*, 16 March 1999

[3] See Roberta Cohen and Francis M Deng, Masses in Flight The Global Crisis of Internal Displacement, Washington, D C , Brookings Institution, 1998, pp 35-38

[4] Consultoria para los Derechos Humanos y el Desplazamiento (CODHES), CODHES INFORMA The CODHES Bulletin, No 17 (15 February 1999), p 1

[5] For detailed analyses of the violations of international human rights law and international humanitarian law occurring in Colombia, see the report of the United Nations High Commissioner for Human Rights on the Office in Colombia (E/CN 4/1999/8), Human Rights Watch, War Without Quarter Colombia and International Humanitarian Law (October 1998), Amnesty International, Just What do We Have to Do to Stay Alive? Colombia's Internally

Displaced: Dispossessed and Exiled in Their Own Land (October 1997); Inter-American Commission on Human Rights, Third Report on the Human Rights Situation in Colombia (26 February 1999).

[6] Fourth Report of the People's Advocate to the Congress of Colombia, Santafé de Bogotá, 1997, pp. 59-60.

[7] E/1999/23 - E/CN.4/1999/167, para. 32.

[8] See the report of the Special Representative of the Secretary-General for Children and Armed Conflict (A/54/430) paras. 122-127.

[9] *Segundo Informe de la Gestión Estatal en Atención Integral a Población Desplazada por la Violencia, op. cit.*, p. 8; Women's Commission for Refugee Women & Children, A Charade of C Concern: The Abandonment of Colombia's Forcibly Displaced, New York, May 1999, p. 2.

[10] See U.S. Committee for Refugees, Colombia's Silent Crisis: One Million Displaced by Violence, Washington, D.C., U.S. Committee for Refugees, March 1998, pp. 16-17.

[11] Nelson Vitoria Larios, "Exposición de motivos: Proyecto de ley; por el cual se dictan medidas especiales de apoyo a los desplazados forzosos en Colombia", July 1995, cited in Liliana Obregon and Maria Stavropoulou, "In Search of Hope: The Plight of Displaced Colombians", in Roberta Cohen and Francis M. Deng (eds.), The Forsaken People: Case Studies of the Internally Displaced, Washington, D.C., Brookings Institution, 1998, p. 426, note 95.

[12] República de Colombia, Departamento Nacional de Planeación, *Documento CONPES 2804: Programa Nacional de Atención Integral a la Población Desplazada por la Violencia*, 13 September 1995.

[13] Report of the Office of the President, cited in Inter-Amercian Commission on Human Rights, Third Report on the Human Rights Situation in Colombia, 26 February 1999, para. 82.

[14] República de Colombia, Departamento Nacional de Planeación, *Documento CONPES 2924: Sistema Nacional de Atención Integral a la Población Desplazada por la Violencia*, 28 May 1997.

[15] Ley 387 de 18 de julio de 1997 "Por la Cual se Adoptan Medidas para la Prevencion del Desplazamiento Forzado; la Atención, Protección, Consolidación y Estabilización Socioeconómica de los Desplazados Internos por la Violencia en la Republica de Colombia".

[16] Decree 173 of 26 January 1998 "*por el cual se adopta el Plan Nacional para la Atención Integral a la Población Desplazada por la Violencia*".

[17] Decree 501 of 13 March 1998.

[18] The Council is comprised of the Presidential Adviser for the Displaced, the Presidential Adviser for Social Policy, the Minister of the Interior, the Minister of Public Finance, the Minister of Defence, the Minister of Health, the Minister of Agriculture and Rural Development, the Minister of Economic Development, the Director of the Department of National Planning, the *Defensor del Pueblo*, the Presidential Adviser on Human Rights, the High Commissioner for Peace and the Manager of the *Red de Solidaridad Social*.

[19] Ministry of the Interior, *El Desplazamiento Humano Forzado en Colombia*, December 1998.

[20] Decree 387 of 3 March 1999 and decree 489 of 11 March 1999.

[21] *Forced Displacement: Families Flee Their Homes*, London, ABColombia Group, 1998.

[22] The Plan Colombia sets out strategies in 10 strategic areas, including peace, economic development, anti-narcotics, and human rights.

[23] "Colombia: ICRC to assist over 170,000 displaced people in 1999," *ICRC News*, No. 34 (19 August 1999).

[24] The background paper on the IDP situation and related coordination challenges in Colombia that was prepared by OCHA on the basis of the mission and presented to the IASC-WG meeting of 17 September 1999 is available (in English only) from the Policy Development Unit of OCHA, New York: ocha-pdu@un.org.

[25] U.S. Committee for Refugees, Colombia's Silent Crisis.

[26] CODHES Final Report for 1997, cited in Project Counselling Service, Forced Displacement in Colombia, Lima, 1998, p. 51.

[27] *Segundo Informe de la Gestión Estatal en Atención Integral a Población Desplazada por la Violencia*, op. cit., p. 8.

[28] CODHES Final Report for 1997, op. cit., p. 51.

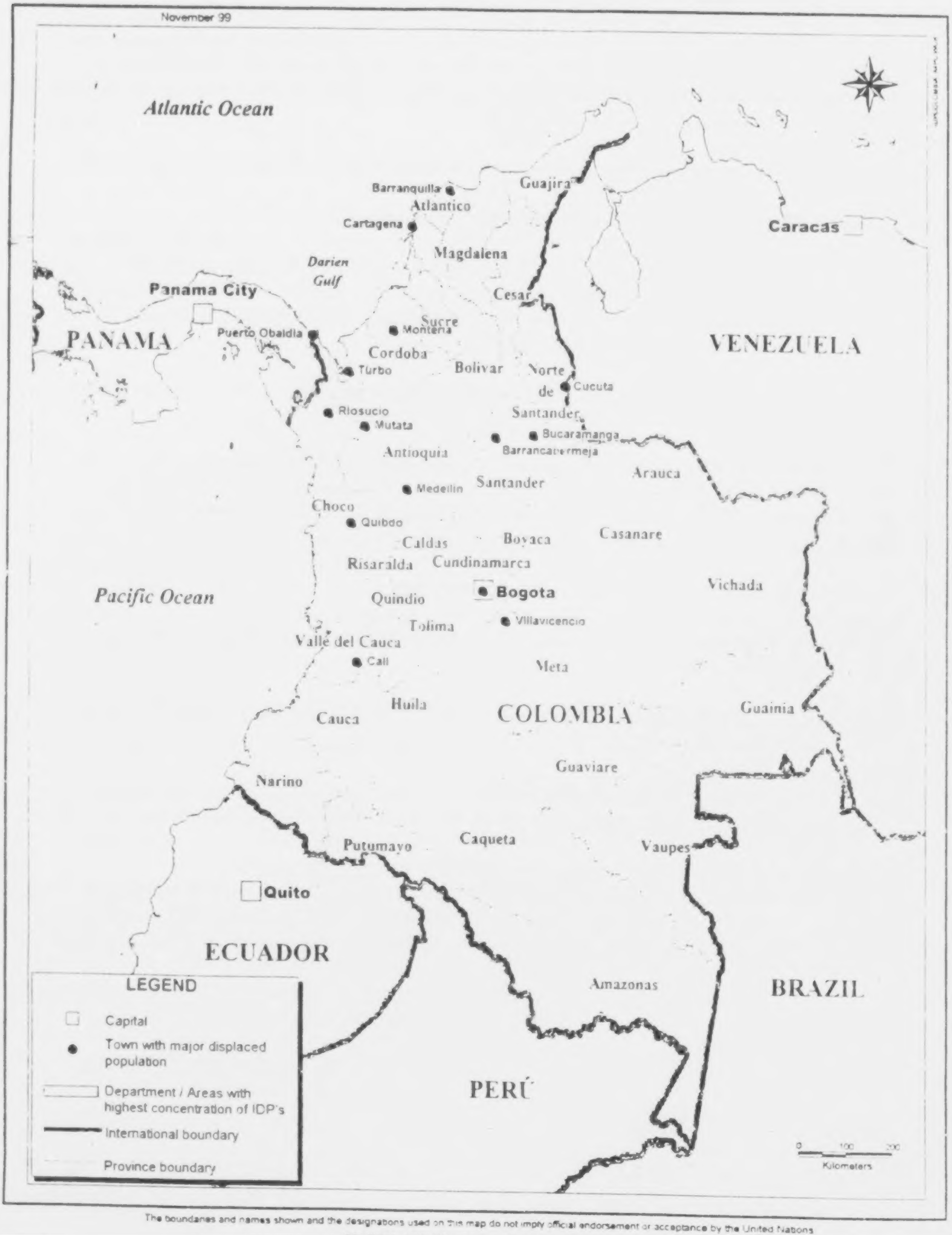
[29] Obregon and Stavropoulou, op. cit., p. 419.

[30] A/54/430, op. cit., paras. 122-127.

[31] Op. cit., note 24 supra.

COLOMBIA: AREAS OF INTERNAL DISPLACEMENT

Annex


November 99
Atlantic Ocean
Guajira
Barranquilla
Atlantico
Cartagena
Caracas
Magdalena
Darien Gulf
Panama City
Cesar
Sucre
Monteria
Puerto Obaldia
PANAMA
VENEZUELA
Cordoba
Turbo
Bolivar
Norte de Santander
Cucuta
Riosucio
Mutata
Bucaramanga
Barrancabermeja
Antioquia
Arauca
Medellin
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Choco
Quibdo
Caldas
Boyaca
Casanare
Risaralda
Cundinamarca
Vichada
Bogota
Pacific Ocean
Quindio
Tolima
Villavicencio
Valle del Cauca
Cali
Meta
Huila
Cauca
COLOMBIA
Guainia
Guaviare
Narino
Putumayo
Caqueta
Vaupes
Quito
ECUADOR
Amazonas
BRAZIL
PERÚ
LEGEND
Capital
Town with major displaced population
Department / Areas with highest concentration of IDP's
International boundary
Province boundary
0
100
200
Kilometers

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